

For Discussion
15 March 2005

**LEGISLATIVE COUNCIL
PANEL ON COMMERCE AND INDUSTRY**

**Proposed Subsidiary Legislation Relating to
Privileges and Immunities for the World Trade Organization
- Follow-up to CB(1)861/04-05(08)**

PURPOSE

This paper is a follow-up to CB(1)861/04-05(08) which was discussed by the Panel on Commerce and Industry on 15 February 2005.

BACKGROUND

2. Hong Kong is a founding member of the World Trade Organization (WTO) which was established on 1 January 1995. Our separate membership continues after reunification in 1997 under the name of “Hong Kong, China”, and remains unchanged after China’s accession to the WTO in 2001. Part of the obligations of being a WTO member is to accord privileges and immunities (Ps & Is) to the WTO, its officials and representatives of its members. In line with our established practice under common law, we need to enact local legislation relating to the Ps & Is for the WTO to fulfill our obligations as a WTO member.

3. The WTO General Council decided, in October 2004, that the Sixth Ministerial Conference of the WTO (MC6) should be held in Hong Kong from 13 to 18 December 2005. It is therefore essential that the subsidiary legislation is enacted before MC6 to ensure that WTO, its officials, and the representatives of WTO members can enjoy the relevant Ps & Is when they exercise their functions in Hong Kong for the purposes of participating in the MC6.

4. At the meeting of the Panel held on 15 February 2005, Members discussed paper CB(1)861/04-05(08) regarding the proposed subsidiary legislation which will give effect to the Ps & Is for the WTO under the International Organizations (Privileges and Immunities) Ordinance (Cap. 558).

5. Members agreed that the relevant Ps & Is must be in place in time for Hong Kong to fulfill its international obligations and to host MC6 in December 2005. They noted that there was urgency in this legislative exercise, and that the subsidiary legislation must be enacted within the current legislative session.

6. Members were however concerned about the level of Ps & Is that would be conferred on the WTO. In particular, they were worried about the immunity from legal process for WTO officials and representatives of WTO members. Members have made some specific observations:-

- (a) As WTO did not have the status of a sovereign state, it should not be entitled to the Ps & Is applicable to a sovereign state;
- (b) If the Ps & Is include immunity from criminal liability, the scope of the Ps & Is might be too excessive vis-à-vis the extra-territorial rights enjoyed by foreign consular or diplomatic representatives in Hong Kong. Certain acts which attracted criminal sanctions, such as speeding or reckless driving, should not be immune from legal actions;
- (c) The Administration should examine the provisions in the Marrakesh Agreement Establishing the WTO (Marrakesh Agreement) and the 1947 United Nations Convention on the Privileges and Immunities of the Specialized Agencies (1947 Convention) carefully and avoid replicating indiscriminately all the provisions into the WTO Order. To facilitate Members' consideration, it would be useful if the Administration could provide more information on similar past cases in which Hong Kong enacted local legislation to provide Ps & Is, as well as on how previous WTO MC hosts had handled similar Ps & Is requirement for past MCs. It would also be useful if the Administration could consider providing the draft of the WTO Order for the Panel's consideration.

7. The Administration undertook to provide more details on the Ps & Is to facilitate further consideration of the Panel.

PRINCIPLES UNDERPINNING THE GRANT OF Ps & Is TO INTERNATIONAL ORGANIZATIONS

8. The Ps & Is enjoyed by International Organizations (IOs) are provided for under their respective statutes or relevant international agreements. Members of an IO are legally obliged to confer Ps & Is as are required by the respective statutes/agreements. In addition, a host Government may also enter into bilateral agreements with IOs, providing them with tailor-made Ps & Is to facilitate the work of the IO in the host territory. The Ps & Is granted to IOs serve to enable the IOs concerned to carry out their functions without undue impediments and interferences. For the same reason, Ps & Is are not conferred on IO personnel or the representatives of its members for their personal benefit, but rather to ensure the independent exercise of their functions in connection with the IOs.

9. Ps & Is are thus extended by Governments to foreign representatives and officials of IOs to enable them to perform their proper functions efficiently. They are immune from the jurisdiction of the local Courts in respect of acts that are performed in connection with their functions and duties. The relevant Ps and Is are not, however, a blanket authority for those concerned to disregard the law or lawful directions of the enforcement agencies. International conventions place an obligation on foreign representatives, without prejudice to their Ps & Is, to respect laws and regulations. In fact, immunity of foreign representatives from

arrest and detention, from civil and criminal jurisdiction as well as from liability to give evidence may be waived with the express consent of the IO in question. Also, there are usually safeguards built into the statutes/international agreements to prevent abuses of privileges and immunities.

10. IOs are not sovereign States. Unlike a State, which is expected to reciprocate each other in terms of diplomatic/consular treatment, an IO is an organization and will not be able to “reciprocate” as such. However, as every member of the IO is obliged to confer Ps & Is to each other with reference to the same statute/international agreement, members will adopt the same standards of treatment towards each other, and are therefore in effect “reciprocating” each other on a multilateral basis in respect of the Ps & Is granted to representatives of members.

LEGISLATIVE PROPOSAL

11. We are now preparing the draft subsidiary legislation, to be named International Organizations (Privileges and Immunities) (World Trade Organization) Order (the WTO Order). The WTO Order is being drafted in accordance with the WTO Marrakesh Agreement (attached at ----- ***Annex I***), which has adopted the level of Ps and Is granted to the specialized agencies of the United Nations under the 1947 Convention ----- (attached at ***Annex II***).

12. With a view to identifying the specific provisions in the 1947 Convention that need to be implemented by legislation, we have examined each article/section of the 1947 Convention to see (a) whether it is relevant to the WTO; (b) whether it affects private rights and obligations; (c) whether it requires exceptions to be made to the existing laws of the HKSAR; and (d) whether it can be accorded through administrative arrangements or the existing laws of the HKSAR. To facilitate Members' consideration of the matter, we have prepared a table ----- at ***Annex III***, setting out all the articles/sections of the 1947 Convention and highlighting the ones which we intend to include in the proposed subsidiary legislation.

13. We will ensure that the Ps & Is to be implemented by the subsidiary legislation do not exceed HKSAR's international obligations as required by the Marrakesh Agreement and the 1947 Convention. ***Members will note from the 1947 Convention that the relevant immunity from jurisdiction granted to representatives of WTO members and to WTO officials may only be invoked respectively for acts performed in relation to their functions and duties related to WTO meetings and in their official capacity.***

14. Sections 13 to 17 of the 1947 Convention give effect to the Ps & Is for ***representatives of WTO members***. The Ps & Is include, inter alia, immunity from legal process (sections 13 and 14). In our view, the Ps & Is prescribed in these sections are intended purely for the purpose of facilitating meetings convened by the WTO. This understanding will be

clearly reflected in the subsidiary legislation. Section 16 reinforces that Ps & Is accorded to the representatives of members are not for their personal benefit, and each WTO member is under a duty to waive the immunity of its representatives when deemed necessary.

15. Sections 18 to 23 of the 1947 Convention give effect to the Ps & Is for *WTO officials*. The Ps & Is include, inter alia, immunity from legal process (section 19(a)). It is however stated clearly in section 19(a) that the immunity is confined to acts performed by WTO officials in their official capacity. Section 22 further confirms that such Ps & Is are granted to officials not for their personal benefit and the WTO shall have the right and duty to waive the immunity of any official.

16. Amongst the WTO officials, the *Director-General of WTO* (DG/WTO) enjoys a higher level of Ps & Is. Section 21 of the 1947 Convention stipulates that the DG/WTO and his immediate family are entitled to the Ps & Is accorded to diplomatic agents. (Articles 30 and 37 of the Vienna Convention on Diplomatic Relations provide that a diplomatic agent and his family members (forming part of his household) are entitled to immunity from the criminal jurisdiction of the receiving State. With a few exceptions, they are also immune from the civil and administrative jurisdiction of the receiving State.) That said, the DG/WTO is also governed by Section 22 of the 1947 Convention which prescribes that Ps & Is granted to WTO officials are not for their personal benefit and the WTO shall have the right and duty to waive such immunity when deemed necessary.

17. Section 25 of the 1947 Convention provides a further safeguard to the effect that WTO officials and representatives of WTO members abusing their Ps & Is may be required to leave the receiving country/territory.

18. As host of MC6, we are conscious that the level of Ps & Is to be implemented in Hong Kong should be comparable to those that were conferred by the hosts of previous MCs. A total of five MCs have been held since the establishment of the WTO in 1995: MC1 in Singapore (December 1996); MC2 in Geneva (May 1998); MC3 in Seattle (November/December 1999); MC4 in Doha (November 2001); and MC5 in Cancun (September 2003). We have tried to research into the relevant legislation enacted by these countries relating to Ps & Is for the WTO. However, as the legal tradition of these countries are very different, a direct comparison is not feasible. A summary of the findings is set out at

Annex IV.

19. We are thus working on the understanding that each WTO member is legally obliged to implement Ps & Is with reference to the same standard, i.e. the “1947 Convention” and hence WTO members are “reciprocating” each other on a multilateral basis in respect of the Ps & Is granted to representatives of WTO members. This means that the hosts of previous MCs should have, in accordance with their international obligations under the Marrakesh Agreement, put in place arrangements to ensure that WTO officials and representatives of WTO members enjoyed

the relevant Ps & Is. This also means that HKSAR's own representatives will enjoy the same level of Ps and Is, as those enjoyed by representatives of other WTO members in Hong Kong, when they are attending meetings convened by the WTO in the territory of other WTO members.

20. We are also conscious about whether the level of Ps & Is for the WTO is consistent with that provided for other IOs in Hong Kong. But, given the different backgrounds behind the international agreements pertaining to different IOs and the different functions and nature of activities of each IO in Hong Kong, a direct comparison will not be fruitful. Nonetheless, we are content that the fundamental spirit and principles underpinning the implementation of Ps & Is for the WTO are the same as those for other IOs in Hong Kong.

WAY FORWARD

21. We plan to introduce the WTO Order into the Legislative Council for negative vetting as soon as possible, with a view to completing the legislative process within the 2004-05 legislative session.

Commerce, Industry and Technology Bureau

March 2005

MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

The *Parties* to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

Resolved, therefore, to develop an integrated, more viable and durable multi-lateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows:

Article I

Establishment of the Organization

The World Trade Organization (hereinafter referred to as "the WTO") is hereby established.

Article II

Scope of the WTO

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.

2. The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as "Multilateral Trade Agreements") are integral parts of this Agreement, binding on all Members.

马拉喀什建立世界贸易组织协定

本协定各参加方，

认识到在处理它们在贸易和经济领域的关系时，应以提高生活水平、保证充分就业、保证实际收入和有效需求的大幅稳定增长以及扩大货物和服务的生产和贸易为目的，同时应依照可持续发展的目标，考虑对世界资源的最佳利用，寻求既保护和保护环境，又以与它们各自在不同经济发展水平的需要和关注相一致的方式，加强为此采取的措施，

进一步认识到需要作出积极努力，以保证发展中国家、特别是其中的最不发达国家，在国际贸易增长中获得与其经济发展需要相当的份额，

期望通过达成互惠互利安排，实质性削减关税和其他贸易壁垒，消除国际贸易关系中的歧视待遇，从而为实现这些目标作出贡献，

因此决定建立一个完整的、更可行的和持久的多边贸易体制，以包含《关税与贸易总协定》、以往贸易自由化努力的结果以及乌拉圭回合多边贸易谈判的全部结果，

决心维护多边贸易体制的基本原则，并促进该体制目标的实现，
协议如下：

第 1 条

WTO 的建立

特此建立世界贸易组织(下称“WTO”)。

第 2 条

WTO 的范围

1. WTO 在与本协定附件所含协定和相关法律文件有关的事项方面，为处理其成员间的贸易关系提供共同的组织机构。
2. 附件 1、附件 2 和附件 3 所列协定及相关法律文件(下称“多边贸易协定”)为本协定的组成部分，对所有成员具有约束力。

3. The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as "Plurilateral Trade Agreements") are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.

4. The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as "GATT 1994") is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as "GATT 1947").

Article III

Functions of the WTO

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the "Dispute Settlement Understanding" or "DSU") in Annex 2 to this Agreement.

4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the "TPRM") provided for in Annex 3 to this Agreement.

5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

Article IV

Structure of the WTO

1. There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement.

3. 附件 4 所列协定及相关法律文件(下称“诸边贸易协定”),对于接受的成员,也属本协定的一部分,并对这些成员具有约束力。诸边贸易协定对于未接受的成员既不产生权利也不产生义务。

4. 附件 1A 所列《1994 年关税与贸易总协定》(下称“GATT 1994”)在法律上不同于 1947 年 10 月 30 日的《关税与贸易总协定》,后者附在《联合国贸易与就业会议筹备委员会第二次会议结束时通过的最后文件》之后,以后又历经更正、修正或修改(下称“GATT 1947”)。

第 3 条

WTO 的职能

1. WTO 应便利本协定和多边贸易协定的实施、管理和运用,并促进其目标的实现,还应为诸边贸易协定提供实施、管理和运用的体制。

2. WTO 在根据本协定附件所列协定处理的事项方面,应为其成员间就多边贸易关系进行的谈判提供场所。WTO 还可按部长级会议可能作出的决定,为其成员间就它们多边贸易关系的进一步谈判提供场所,并提供实施此类谈判结果的体制。

3. WTO 应管理本协定附件 2 所列《关于争端解决规则与程序的谅解》(下称“《争端解决谅解》”或“DSU”)。

4. WTO 应管理本协定附件 3 规定的《贸易政策审议机制》(下称“TPRM”)。

5. 为实现全球经济决策的更大一致性,WTO 应酌情与国际货币基金组织和国际复兴开发银行及其附属机构进行合作。

第 4 条

WTO 的结构

1. 设立由所有成员的代表组成的部长级会议,应至少每 2 年召开一次会议。部长级会议应履行 WTO 的职能,并为此采取必要的行动。如一成员提出请求,部长级会议有权依照本协定和有关多边贸易协定中关于决策的具体要求,对任何多边贸易协定项下的所有事项作出决定。

2. There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7.

3. The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

4. The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the TPRM. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

5. There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Council for TRIPS"), which shall operate under the general guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreements in Annex 1A. The Council for Trade in Services shall oversee the functioning of the General Agreement on Trade in Services (hereinafter referred to as "GATS"). The Council for TRIPS shall oversee the functioning of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Agreement on TRIPS"). These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure subject to the approval of the General Council. Membership in these Councils shall be open to representatives of all Members. These Councils shall meet as necessary to carry out their functions.

6. The Council for Trade in Goods, the Council for Trade in Services and the Council for TRIPS shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of their respective Councils.

7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the General Council for appropriate action. Membership in these Committees shall be open to representatives of all Members.

8. The bodies provided for under the Plurilateral Trade Agreements shall carry out the functions assigned to them under those Agreements and shall operate within

2. 设立由所有成员的代表组成的总理事会，酌情召开会议。在部长级会议休会期间，其职能应由总理事会行使。总理事会还应行使本协定指定的职能。总理事会应制定自己的议事规则，并批准第 7 款规定的各委员会的议事规则。

3. 总理事会应酌情召开会议，履行《争端解决谅解》规定的争端解决机构的职责。争端解决机构可有自己的主席，并制定其认为履行这些职责所必需的议事规则。

4. 总理事会应酌情召开会议，履行 TPRM 中规定的贸易政策审议机构的职责。贸易政策审议机构可有自己的主席，并应制定其认为履行这些职责所必需的议事规则。

5. 设立货物贸易理事会、服务贸易理事会和与贸易有关的知识产权理事会(下称“TRIPS 理事会”)，各理事会应根据总理事会的总体指导运作。货物贸易理事会应监督附件 1A 所列多边贸易协定的实施情况。服务贸易理事会应监督《服务贸易总协定》(下称“GATS”)的实施情况。TRIPS 理事会应监督《与贸易有关的知识产权协定》(下称“《TRIPS 协定》”)的实施情况。各理事会应履行各自协定和总理事会指定的职能。它们应自行制定各自的议事规则，但需经总理事会批准。各理事会的成员资格应对所有成员的代表开放。各理事会应在必要时召开会议，以行使其职能。

6. 货物贸易理事会、服务贸易理事会和 TRIPS 理事会应按要求设立附属机构。各附属机构应自行制定各自的议事规则，但需经各自的理事会批准。

7. 部长级会议应设立贸易与发展委员会、国际收支限制委员会和预算、财务与行政委员会，各委员会应行使本协定和多边贸易协定指定的职能，以及总理事会指定的任何附加职能。部长级会议还可设立具有其认为适当的职能的其他委员会。作为其职能的一部分，贸易与发展委员会应定期审议多边贸易协定中有利于最不发达国家成员的特殊规定，并向总理事会报告以采取适当行动。各委员会的成员资格应对所有成员的代表开放。

8. 诸边贸易协定项下规定的机构履行这些协定指定的职责，并在 WTO

the institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on a regular basis.

Article V

Relations with Other Organizations

1. The General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO.
2. The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO.

Article VI

The Secretariat

1. There shall be a Secretariat of the WTO (hereinafter referred to as "the Secretariat") headed by a Director-General.
2. The Ministerial Conference shall appoint the Director-General and adopt regulations setting out the powers, duties, conditions of service and term of office of the Director-General.
3. The Director-General shall appoint the members of the staff of the Secretariat and determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference.
4. The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat shall not seek or accept instructions from any government or any other authority external to the WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the WTO shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.

Article VII

Budget and Contributions

1. The Director-General shall present to the Committee on Budget, Finance and Administration the annual budget estimate and financial statement of the WTO. The Committee on Budget, Finance and Administration shall review the annual budget estimate and the financial statement presented by the Director-General and make recommendations thereon to the General Council. The annual budget estimate shall be subject to approval by the General Council.
2. The Committee on Budget, Finance and Administration shall propose to the General Council financial regulations which shall include provisions setting out:

的组织机构内运作。各机构应定期向总理事会报告其活动。

第 5 条

与其他组织的关系

1. 总理事会应就与职责上同 WTO 有关的政府间组织进行有效合作作出适当安排。
2. 总理事会可就与涉及 WTO 有关事项的非政府组织进行磋商和合作作出适当安排。

第 6 条

秘书处

1. 设立由总干事领导的 WTO 秘书处(下称“秘书处”)。
2. 部长级会议应任命总干事,并通过列出总干事的权力、职责、服务条件和任期的条例。
3. 总干事应任命秘书处职员,并依照部长级会议通过的条例,确定他们的职责和服务条件。
4. 总干事和秘书处职员的职责纯属国际性质。在履行其职责时,总干事和秘书处职员不得寻求或接受 WTO 之外任何政府或任何其他权力机关的指示。他们应避免任何可能对其国际官员身份产生不利影响的行动。WTO 成员应尊重总干事和秘书处职员职责的国际性质,不得寻求在他们履行职责时对其施加影响。

第 7 条

预算和会费

1. 总干事应向预算、财务与行政委员会提交 WTO 的年度概算和决算。预算、财务与行政委员会应审议总干事提交的年度概算和决算,并就此向总理事会提出建议。年度概算应经总理事会批准。
2. 预算、财务与行政委员会应向总理事会提出有关财务条例的建议,该条例应包括列出下列内容的规定:

- (a) the scale of contributions apportioning the expenses of the WTO among its Members; and
- (b) the measures to be taken in respect of Members in arrears.

The financial regulations shall be based, as far as practicable, on the regulations and practices of GATT 1947.

3. The General Council shall adopt the financial regulations and the annual budget estimate by a two-thirds majority comprising more than half of the Members of the WTO.

4. Each Member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

Article VIII

Status of the WTO

1. The WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions.
2. The WTO shall be accorded by each of its Members such privileges and immunities as are necessary for the exercise of its functions.
3. The officials of the WTO and the representatives of the Members shall similarly be accorded by each of its Members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the WTO.
4. The privileges and immunities to be accorded by a Member to the WTO, its officials, and the representatives of its Members shall be similar to the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947.
5. The WTO may conclude a headquarters agreement.

Article IX

Decision-Making

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.¹ Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States²

¹ The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.

² The number of votes of the European Communities and their member States shall in no case exceed the number of the member States of the European Communities.

- (a) 根据 WTO 费用确定的各成员会费分摊比例; 及
- (b) 对拖欠会费成员所采取的措施。

财务条例应尽可能依据 GATT 1947 的条例和做法。

3. 总理事会应以 WTO 半数以上成员的三分之二多数通过财务条例和年度概算。

4. 每一成员应依照总理事会通过的财务条例, 迅速向 WTO 交纳其在 WTO 费用中分摊的份额。

第 8 条

WTO 的地位

1. WTO 具有法律人格, WTO 每一成员均应给予 WTO 履行其职能所必需的法定资格。
2. WTO 每一成员均应给予 WTO 履行其职能所必需的特权和豁免。
3. WTO 每一成员应同样给予 WTO 官员和各成员代表独立履行与 WTO 有关的职能所必需的特权和豁免。
4. WTO 一成员给予 WTO、其官员及其成员的代表特权和豁免应与 1947 年 11 月 21 日联合国大会批准的《专门机构特权及豁免公约》所规定的特权和豁免相似。
5. WTO 可订立一总部协定。

第 9 条

决策

1. WTO 应继续实行 GATT 1947 所遵循的经协商一致作出决定的做法。除非另有规定, 否则如无法经协商一致作出决定, 则争论中的事项应通过投票决定。在部长级会议和总理事会会议上, WTO 每一成员拥有一票。如欧洲共同体行使投票权, 则其拥有的票数应与属 WTO 成员的欧洲共同体成员国的数目²相等。部长级会议和总理事会的决定应以所投票数的简单

¹ 如在作出决定时, 出席会议的成员均未正式反对拟议的决定, 则有关机构应被视为经协商一致对提交其审议的事项作出了决定。

² 欧洲共同体及其成员国的票数决不能超过欧洲共同体成员国的数目。

which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement.³

2. The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X.

3. In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths⁴ of the Members unless otherwise provided for in this paragraph.

- (a) A request for a waiver concerning this Agreement shall be submitted to the Ministerial Conference for consideration pursuant to the practice of decision-making by consensus. The Ministerial Conference shall establish a time period, which shall not exceed 90 days, to consider the request. If consensus is not reached during the time period, any decision to grant a waiver shall be taken by three fourths⁴ of the Members.
- (b) A request for a waiver concerning the Multilateral Trade Agreements in Annexes 1A or 1B or 1C and their annexes shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS, respectively, for consideration during a time period which shall not exceed 90 days. At the end of the time period, the relevant Council shall submit a report to the Ministerial Conference.

4. A decision by the Ministerial Conference granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates. In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver.

³ Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 4 of Article 2 of the Dispute Settlement Understanding.

⁴ A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting Member has not performed by the end of the relevant period shall be taken only by consensus.

多数作出, 除非本协定或有关多边贸易协定另有规定。³

2. 部长级会议和总理事会拥有通过对本协定和多边贸易协定所作解释的专有权力。对附件 1 中一多边贸易协定的解释, 部长级会议和总理事会应根据监督该协定实施情况的理事会的建议行使其权力。通过一项解释的决定应由成员的四分之三多数作出。本款不得以损害第 10 条中有关修正规定的方式使用。

3. 在特殊情况下, 部长级会议可决定豁免本协定或任何多边贸易协定要求一成员承担的义务, 但是任何此类决定应由成员的四分之三⁴多数作出, 除非本款另有规定。

- (a) 有关本协定的豁免请求, 应根据经协商一致作出决定的做法, 提交部长级会议审议。部长级会议应确定一不超过 90 天的期限审议该请求。如在此期限内未能协商一致, 则任何给予豁免的决定应由成员的四分之三多数作出。⁴
- (b) 有关附件 1A、附件 1B 或附件 1C 所列多边贸易协定及其附件的豁免请求, 应首先分别提交货物贸易理事会、服务贸易理事会或 TRIPS 理事会, 在不超过 90 天的期限内审议。在该期限结束时, 有关理事会应向部长级会议提交一份报告。

4. 部长级会议给予豁免的决定应陈述可证明该决定合理的特殊情况、适用于实施豁免的条款和条件以及豁免终止的日期。所给予的期限超过 1 年的任何豁免应在给予后不迟于 1 年的时间内由部长级会议审议, 并在此后每年审议一次, 直至豁免终止。每次审议时, 部长级会议应审查证明豁免合理的特殊情况是否仍然存在及豁免所附条款和条件是否得到满足。部长级会议根据年度审议情况, 可延长、修改或终止该项豁免。

³ 对于作为争端解决机构召集的总理事会的决定, 应仅依照《争端解决谅解》第 2 条第 4 款的规定作出。

⁴ 对于受过过渡期或分阶段执行期限约束的任何义务, 如提出豁免请求的成员在有关期限结束时未履行该义务, 则关于豁免的决定只能经协商一致作出。

5. Decisions under a Plurilateral Trade Agreement, including any decisions on interpretations and waivers, shall be governed by the provisions of that Agreement.

Article X

Amendments

1. Any Member of the WTO may initiate a proposal to amend the provisions of this Agreement or the Multilateral Trade Agreements in Annex 1 by submitting such proposal to the Ministerial Conference. The Councils listed in paragraph 5 of Article IV may also submit to the Ministerial Conference proposals to amend the provisions of the corresponding Multilateral Trade Agreements in Annex 1 the functioning of which they oversee. Unless the Ministerial Conference decides on a longer period, for a period of 90 days after the proposal has been tabled formally at the Ministerial Conference any decision by the Ministerial Conference to submit the proposed amendment to the Members for acceptance shall be taken by consensus. Unless the provisions of paragraphs 2, 5 or 6 apply, that decision shall specify whether the provisions of paragraphs 3 or 4 shall apply. If consensus is reached, the Ministerial Conference shall forthwith submit the proposed amendment to the Members for acceptance. If consensus is not reached at a meeting of the Ministerial Conference within the established period, the Ministerial Conference shall decide by a two-thirds majority of the Members whether to submit the proposed amendment to the Members for acceptance. Except as provided in paragraphs 2, 5 and 6, the provisions of paragraph 3 shall apply to the proposed amendment, unless the Ministerial Conference decides by a three-fourths majority of the Members that the provisions of paragraph 4 shall apply.

2. Amendments to the provisions of this Article and to the provisions of the following Articles shall take effect only upon acceptance by all Members:

Article IX of this Agreement;

Articles I and II of GATT 1994;

Article II:1 of GATS;

Article 4 of the Agreement on TRIPS.

3. Amendments to provisions of this Agreement, or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would alter the rights and obligations of the Members, shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each other Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference.

4. Amendments to provisions of this Agreement or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would not alter the rights and obligations of the Members, shall take effect for all Members upon acceptance by two thirds of the Members.

5. 一诸边贸易协定项下作出的决定, 包括有关解释和豁免的任何决定, 应按该协定的规定执行。

第 10 条

修正

1. WTO 任何成员均可提出修正本协定或附件 1 所列多边贸易协定条款的提案, 提案应提交部长级会议。第 4 条第 5 款所列各理事会也可向部长级会议提交提案, 以修正其监督实施情况的附件 1 所列相应多边贸易协定的条款。除非部长级会议决定一更长的期限, 否则当提案正式提交部长级会议后 90 天内, 部长级会议应经协商一致作出任何有关将拟议的修正提交各成员供接受的决定。除非第 2 款、第 5 款或第 6 款的规定适用, 否则该决定应列明是否适用第 3 款或第 4 款的规定。如协商一致, 部长级会议应立刻将拟议的修正提交各成员供接受。如在确定期限内, 在部长级会议的一次会议上未能协商一致, 则部长级会议应以成员的三分之二多数决定是否将拟议的修正提交各成员供接受。除第 2 款、第 5 款和第 6 款的规定外, 第 3 款的规定适用于拟议的修正, 除非部长级会议以成员的四分之三多数决定应适用第 4 款的规定。

2. 对本条的规定和下列各条款的修正应经所有成员接受方可生效:

本协定第 9 条;

GATT 1994 第 1 条和第 2 条;

GATS 第 2 条第 1 款;

《TRIPS 协定》第 4 条。

3. 对本协定条款的修正或对附件 1A 和附件 1C 所列多边贸易协定条款的修正, 除第 2 款和第 6 款所列条款外, 如其具有改变各成员权利和义务的性质, 则经成员的三分之二多数接受后, 应对接受修正的成员生效, 并在此后对接受修正的每一其他成员自其接受时起生效。部长级会议可以成员的四分之三多数决定根据本款生效的任何修正是否属如下性质: 在部长级会议对每种情况指定的期限内未接受修正的任何成员有权退出 WTO, 或经部长级会议同意, 仍为成员。

4. 对本协定条款的修正, 或对附件 1A 和附件 1C 所列多边贸易协定条款的修正, 除第 2 款和第 6 款所列条款外, 如其具有不改变各成员权利和义务的性质, 则经成员的三分之二多数接受后, 应对所有成员生效。

5. Except as provided in paragraph 2 above, amendments to Parts I, II and III of GATS and the respective annexes shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under the preceding provision is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference. Amendments to Parts IV, V and VI of GATS and the respective annexes shall take effect for all Members upon acceptance by two thirds of the Members.

6. Notwithstanding the other provisions of this Article, amendments to the Agreement on TRIPS meeting the requirements of paragraph 2 of Article 71 thereof may be adopted by the Ministerial Conference without further formal acceptance process.

7. Any Member accepting an amendment to this Agreement or to a Multilateral Trade Agreement in Annex 1 shall deposit an instrument of acceptance with the Director-General of the WTO within the period of acceptance specified by the Ministerial Conference.

8. Any Member of the WTO may initiate a proposal to amend the provisions of the Multilateral Trade Agreements in Annexes 2 and 3 by submitting such proposal to the Ministerial Conference. The decision to approve amendments to the Multilateral Trade Agreement in Annex 2 shall be made by consensus and these amendments shall take effect for all Members upon approval by the Ministerial Conference. Decisions to approve amendments to the Multilateral Trade Agreement in Annex 3 shall take effect for all Members upon approval by the Ministerial Conference.

9. The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4. The Ministerial Conference, upon the request of the Members parties to a Plurilateral Trade Agreement, may decide to delete that Agreement from Annex 4.

10. Amendments to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XI

Original Membership

1. The contracting parties to GATT 1947 as of the date of entry into force of this Agreement, and the European Communities, which accept this Agreement and the Multilateral Trade Agreements and for which Schedules of Concessions and Commitments are annexed to GATT 1994 and for which Schedules of Specific Commitments are annexed to GATS shall become original Members of the WTO.

2. The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

5. 除以上第 2 款的规定外, 对 GATS 第一部分、第二部分和第三部分及相应附件的修正, 经成员的三分之二多数接受后, 应对接受修正的成员生效, 并在此后对接受修正的每一其他成员自其接受时起生效。部长级会议可以成员的四分之三多数决定根据前述规定生效的任何修正是否属如下性质: 在部长级会议对每种情况指定的期限内未接受修正的任何成员有权退出 WTO, 或经部长级会议同意, 仍为成员。对 GATS 第四部分、第五部分和第六部分及相应附件的修正, 经成员的三分之二多数接受后, 应对所有成员生效。

6. 尽管有本条其他规定, 但是满足《TRIPS 协定》第 71 条第 2 款要求的对该协定的修正, 可由部长级会议通过, 而无需进一步的正式接受程序。

7. 任何接受对本协定或附件 1 所列多边贸易协定修正的成员, 应在部长级会议指定的接受期限内, 将接受书交存 WTO 总干事。

8. WTO 任何成员均可提出修正附件 2 和附件 3 所列多边贸易协定条款的提案, 此类提案应提交部长级会议。批准对附件 2 所列多边贸易协定修正的决定应经协商一致作出, 这些修正经部长级会议批准后, 应对所有成员生效。批准对附件 3 所列多边贸易协定修正的决定, 经部长级会议批准后, 应对所有成员生效。

9. 应属一贸易协定参加方的成员请求, 部长级会议可决定将该贸易协定加入附件 4, 但此种决定只能经协商一致作出。应属一诸边贸易协定参加方的成员请求, 部长级会议可决定将该协定从附件 4 中删除。

10. 对一诸边贸易协定的修正应按该协定的规定执行。

第 11 条

创始成员资格

1. 本协定生效之日的 GATT 1947 缔约方和欧洲共同体, 如接受本协定和多边贸易协定, 并将减让和承诺表附在 GATT 1994 之后, 将具体承诺减让表附在 GATS 之后, 则应成为 WTO 创始成员。

2. 联合国承认的最不发达国家只需承担与其各自发展、财政和贸易需要或其管理和机构能力相符的承诺和减让。

Article XII*Accession*

1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.
2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.
3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XIII*Non-Application of Multilateral
Trade Agreements between Particular Members*

1. This Agreement and the Multilateral Trade Agreements in Annexes 1 and 2 shall not apply as between any Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application.
2. Paragraph 1 may be invoked between original Members of the WTO which were contracting parties to GATT 1947 only where Article XXXV of that Agreement had been invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement.
3. Paragraph 1 shall apply between a Member and another Member which has acceded under Article XII only if the Member not consenting to the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.
4. The Ministerial Conference may review the operation of this Article in particular cases at the request of any Member and make appropriate recommendations.
5. Non-application of a Plurilateral Trade Agreement between parties to that Agreement shall be governed by the provisions of that Agreement.

Article XIV*Acceptance, Entry into Force and Deposit*

1. This Agreement shall be open for acceptance, by signature or otherwise, by contracting parties to GATT 1947, and the European Communities, which are eligible to become original Members of the WTO in accordance with Article XI of this Agreement. Such acceptance shall apply to this Agreement and the Multilateral Trade Agreements annexed hereto. This Agreement and the Multilateral Trade Agreements annexed hereto shall enter into force on the date determined by Ministers in accordance with paragraph 3 of the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations and shall remain open for

第 12 条*加入*

1. 任何国家或在处理其对外贸易关系及本协定和多边贸易协定规定的其他事项方面拥有完全主权的单独关税区, 可按它与 WTO 议定的条件加入本协定。此加入适用于本协定及所附多边贸易协定。
2. 有关加入的决定应由部长级会议作出。部长级会议应以 WTO 成员的三分之二多数批准关于加入条件的协议。
3. 一诸边贸易协定的加入应按该协定的规定执行。

第 13 条*多边贸易协定在特定成员间的不适用*

1. 任何成员, 如在自己成为成员时或在另一成员成为成员时, 不同意在彼此之间适用本协定及附件 1 和附件 2 所列多边贸易协定, 则这些协定在该两成员之间不适用。
2. 对于原属 GATT 1947 缔约方的 WTO 创始成员, 只有在这些缔约方以往已经援引 GATT 1947 第 35 条, 且在本协定对其生效时, 该条款仍然在它们之间有效的前提下, 第 1 款的规定方可在它们之间援引。
3. 对于根据第 12 条加入 WTO 的成员, 只有在不同意对另一成员适用的一成员在部长级会议批准关于加入条件的协议之前, 已按此通知部长级会议的前提下, 第 1 款的规定方可在该两成员之间适用。
4. 在任何成员请求下, 部长级会议可审议本条在特殊情况下的运用情况, 并提出适当建议。
5. 诸边贸易协定参加方之间的不适用应按该协定的规定执行。

第 14 条*接受、生效和交存*

1. 本协定应开放供依照本协定第 11 条有资格成为 WTO 创始成员的 GATT 1947 缔约方和欧洲共同体以签字或其他方式接受。此接受应适用于本协定及其所附多边贸易协定。本协定及其所附多边贸易协定应在部长们依照《乌拉圭回合多边贸易谈判结果最后文件》第 3 段所确定的日期生效,

acceptance for a period of two years following that date unless the Ministers decide otherwise. An acceptance following the entry into force of this Agreement shall enter into force on the 30th day following the date of such acceptance.

2. A Member which accepts this Agreement after its entry into force shall implement those concessions and obligations in the Multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this Agreement as if it had accepted this Agreement on the date of its entry into force.

3. Until the entry into force of this Agreement, the text of this Agreement and the Multilateral Trade Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. The Director-General shall promptly furnish a certified true copy of this Agreement and the Multilateral Trade Agreements, and a notification of each acceptance thereof, to each government and the European Communities having accepted this Agreement. This Agreement and the Multilateral Trade Agreements, and any amendments thereto, shall, upon the entry into force of this Agreement, be deposited with the Director-General of the WTO.

4. The acceptance and entry into force of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement. Such Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. Upon the entry into force of this Agreement, such Agreements shall be deposited with the Director-General of the WTO.

Article XV

Withdrawal

1. Any Member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.

2. Withdrawal from a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XVI

Miscellaneous Provisions

1. Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947 and the bodies established in the framework of GATT 1947.

2. To the extent practicable, the Secretariat of GATT 1947 shall become the Secretariat of the WTO, and the Director-General to the CONTRACTING PARTIES to GATT 1947, until such time as the Ministerial Conference has appointed a Director-General in accordance with paragraph 2 of Article VI of this Agreement, shall serve as Director-General of the WTO.

并在此日期起 2 年内开放供接受, 除非部长们另有决定。本协定生效之后的接受应在此接受之日后的第 30 天生效。

2. 在本协定生效之后接受本协定的成员, 应执行自本协定生效开始的期限内应执行的多边贸易协定中的减让和义务, 如同该成员在本协定生效之日即接受本协定。

3. 在本协定生效之前, 本协定和多边贸易协定的文本应交存 GATT 1947 缔约方全体的总干事。总干事应及时向已接受本协定的每一国政府和欧洲共同体提供一份本协定和多边贸易协定经核证无误的副本和每一份关于接受的通知。在本协定生效时, 本协定和多边贸易协定及任何修正应交存 WTO 总干事。

4. 一诸边贸易协定的接受和生效应按该协定的规定执行。此类协定应交存 GATT 1947 缔约方全体的总干事。在本协定生效时, 此类协定应交存 WTO 总干事。

第 15 条

退出

1. 任何成员均可退出本协定。此退出适用于本协定和多边贸易协定, 并在 WTO 总干事收到书面退出通知之日起 6 个月期满后生效。

2. 一诸边贸易协定的退出应按该协定的规定执行。

第 16 条

杂项条款

1. 除本协定或多边贸易协定项下另有规定外, WTO 应以 GATT 1947 缔约方全体和在 GATT 1947 范围内设立的机构所遵循的决定、程序和惯例为指导。

2. 在可行的情况下, GATT 1947 的秘书处应成为 WTO 秘书处, GATT 1947 缔约方全体的总干事在部长级会议依照本协定第 6 条第 2 款任命总干事之前, 应担任 WTO 总干事。

3. In the event of a conflict between a provision of this Agreement and a provision of any of the Multilateral Trade Agreements, the provision of this Agreement shall prevail to the extent of the conflict.

4. Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements.

5. No reservations may be made in respect of any provision of this Agreement. Reservations in respect of any of the provisions of the Multilateral Trade Agreements may only be made to the extent provided for in those Agreements. Reservations in respect of a provision of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

6. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

Explanatory Notes

The terms "country" or "countries" as used in this Agreement and the Multilateral Trade Agreements are to be understood to include any separate customs territory Member of the WTO.

In the case of a separate customs territory Member of the WTO, where an expression in this Agreement and the Multilateral Trade Agreements is qualified by the term "national", such expression shall be read as pertaining to that customs territory, unless otherwise specified.

3. 在本协定的条款与任何多边贸易协定的条款产生抵触时,应以本协定的条款为准。

4. 每一成员应保证其法律、法规和行政程序与所附各协定对其规定的义务相一致。

5. 不得对本协定的任何条款提出保留。对多边贸易协定任何条款的保留应仅以这些协定规定的程度为限。对一诸边贸易协定条款的保留应按该协定的规定执行。

6. 本协定应依照《联合国宪章》第 102 条的规定予以登记。

1994 年 4 月 15 日订于马拉喀什,正本一份用英文、法文和西班牙文写成,三种文本具有同等效力。

解释性说明

本协定和多边贸易协定中使用的“国家”一词应理解为包括任何 WTO 单独关税区成员。

对于 WTO 单独关税区成员,如本协定和多边贸易协定中的措辞被冠以“国家(的)”一词,则此措辞应理解为与该单独关税区有关,除非另有规定。

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES

Whereas the General Assembly of the United Nations adopted on 13 February 1946¹ a resolution contemplating the unification as far as possible of the privileges and immunities enjoyed by the United Nations and by the various specialized agencies; and

Whereas consultations concerning the implementation of the aforesaid resolution have taken place between the United Nations and the specialized agencies;

Consequently, by resolution 179(II) adopted on 21 November 1947, the General Assembly has approved the following Convention, which is submitted to the specialized agencies for acceptance and to every Member of the United Nations and to every other State member of one or more of the specialized agencies for accession.

ARTICLE I Definitions and scope

Section 1

In this Convention:

- (i) The words "standard clauses" refer to the provisions of articles II to IX.
- (ii) The words "specialized agencies" mean:
 - (a) The International Labour Organization;
 - (b) The Food and Agriculture Organization of the United Nations;
 - (c) The United Nations Educational, Scientific and Cultural Organization;
 - (d) The International Civil Aviation Organization;
 - (e) The International Monetary Fund;
 - (f) The International Bank for Reconstruction and Development;
 - (g) The World Health Organization;
 - (h) The Universal Postal Union;
 - (i) The International Telecommunications Union; and
 - (j) Any other agency in relationship with the United Nations in accordance with Articles 57 and 63 of the Charter.

¹ See Resolutions adopted by the General Assembly during the first part of its first session, resolution No. 22 (I) D, page 33.

CONVENTION SUR LES PRIVILEGES ET IMMUNITES DES INSTITUTIONS SPECIALISEES

Considérant que l'Assemblée générale de l'Organisation des Nations Unies a adopté le 13 février 1946¹ une résolution tendant à l'unification, dans la mesure du possible, des privilèges et immunités dont jouissent l'Organisation des Nations Unies et les différentes institutions spécialisées;

Considérant que des consultations ont eu lieu entre l'Organisation des Nations Unies et les institutions spécialisées en vue de donner effet à ladite résolution;

En conséquence, par la résolution 179(II) adoptée le 21 novembre 1947, l'Assemblée générale a approuvé la Convention ci-après, qui est soumise pour acceptation aux institutions spécialisées, et pour adhésion à tout Membre de l'Organisation des Nations Unies ainsi qu'à tout autre Etat membre d'une ou de plusieurs institutions spécialisées.

ARTICLE PREMIER Définitions et champ d'application

Section 1

Aux fins de la présente Convention:

- i) Les mots "clauses-standard" visent les dispositions des articles II à IX.
- ii) Les mots "institutions spécialisées" visent:
 - a) L'Organisation internationale du Travail;
 - b) L'Organisation des Nations Unies pour l'alimentation et l'agriculture;
 - c) L'Organisation des Nations Unies pour l'éducation, la science et la culture;
 - d) L'Organisation de l'aviation civile internationale;
 - e) Le Fonds monétaire international;
 - f) La Banque internationale pour la reconstruction et la mise en valeur;
 - g) L'Organisation mondiale de la santé;
 - h) L'Union postale universelle;
 - i) L'Union internationale des télécommunications;
 - j) Toute autre institution reliée à l'Organisation des Nations Unies conformément aux Articles 57 et 63 de la Charte.

¹ Voir les Résolutions adoptées par l'Assemblée générale pendant la première partie de sa première session, résolution 22 (I) D, page 33.

(iii) The word "Convention" means, in relation to any particular specialized agency, the standard clauses as modified by the final (or revised) text of the annex transmitted by that agency in accordance with sections 36 and 38.

(iv) For the purposes of article III, the words "property and assets" shall also include property and funds administered by a specialized agency in furtherance of its constitutional functions.

(v) For the purposes of articles V and VII, the expression "representatives of members" shall be deemed to include all representatives, alternates, advisers, technical experts and secretaries of delegations.

(vi) In sections 13, 14, 15 and 25, the expression "meetings convened by a specialized agency" means meetings: (1) of its assembly and of its executive body (however designated), and (2) of any commission provided for in its constitution; (3) of any international conference convened by it; and (4) of any committee of any of these bodies.

(vii) The term "executive head" means the *principal executive official* of the specialized agency in question, whether designated "Director-General" or otherwise.

Section 2

Each State party to this Convention in respect of any specialized agency to which this Convention has become applicable in accordance with section 37 shall accord to, or in connexion with, that agency the privileges and immunities set forth in the standard clauses on the conditions specified therein, subject to any modification of those clauses contained in the provisions of the final (or revised) annex relating to that agency and transmitted in accordance with sections 36 or 38.

ARTICLE II Juridical personality

Section 3

The specialized agencies shall possess juridical personality. They shall have the capacity (a) to contract, (b) to acquire and dispose of immovable and movable property, (c) to institute legal proceedings.

ARTICLE III Property, funds and assets

Section 4

The specialized agencies, their property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case they have expressly waived their immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 5

The premises of the specialized agencies shall be inviolable. The property and assets of the specialized agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 6

The archives of the specialized agencies, and in general all documents belonging to them or held by them, shall be inviolable, wherever located.

iii) Le mot "Convention", en tant qu'il s'applique à une institution spécialisée déterminée, vise les clauses standard modifiées par le texte final (ou révisé) de l'annexe transmise par ladite institution conformément aux sections 36 et 38.

iv) Aux fins de l'article III, les mots "biens et avoirs" s'appliquent également aux biens et fonds administrés par une institution spécialisée dans l'exercice de ses attributions organiques.

v) Aux fins des articles V et VII, l'expression "représentants des membres" est considérée comme comprenant tous les représentants, représentants suppléants, conseillers, experts techniques et secrétaires de délégations.

vi) Aux fins des sections 13, 14, 15 et 25, l'expression "réunions convoquées par une institution spécialisée" vise les réunions: 1) de son assemblée ou de son conseil de direction (quel que soit le terme utilisé pour les désigner); 2) de toute commission prévue par son acte organique; 3) de toute conférence internationale convoquée par elle; 4) de toute commission de l'un quelconque des organes précédents.

vii) Le terme "directeur général" désigne le *fonctionnaire principal* de l'institution spécialisée en question, que son titre soit celui de directeur général ou tout autre.

Section 2

Tout Etat partie à la présente Convention accordera en ce qui concerne toute institution spécialisée couverte par son adhésion et à laquelle la présente Convention est devenue applicable en vertu de la section 37, les privilèges et immunités prévus par les clauses-standard aux conditions qui y sont spécifiées, sous réserve de toutes modifications apportées aux dites clauses par les dispositions du texte final (ou révisé) de l'annexe relative à cette institution, dûment transmise conformément aux sections 36 ou 38.

ARTICLE II Personnalité juridique

Section 3

Les institutions spécialisées possèdent la personnalité juridique. Elles ont la capacité a) de contracter, b) d'acquérir et de disposer des biens immobiliers et mobiliers, c) d'ester en justice.

ARTICLE III Biens, fonds et avoirs

Section 4

Les institutions spécialisées, leurs biens et avoirs, en quelque endroit qu'ils se trouvent et quel qu'en soit le détenteur, jouissent de l'immunité de juridiction, sauf dans la mesure où elles y ont expressément renoncé dans un cas particulier. Il est entendu toutefois que la renonciation ne peut s'étendre à des mesures d'exécution.

Section 5

Les locaux des institutions spécialisées sont inviolables. Leurs biens et avoirs, en quelque endroit qu'ils se trouvent et quel qu'en soit le détenteur, sont exempts de perquisition, réquisition, confiscation, expropriation ou de toute autre forme de contrainte exécutive, administrative, judiciaire ou législative.

Section 6

Les archives des institutions spécialisées et, d'une manière générale, tous les documents leur appartenant ou détenus par elles, sont inviolables en quelque endroit qu'ils se trouvent.

Section 7

Without being restricted by financial controls, regulations or moratoria of any kind:

(a) The specialized agencies may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) The specialized agencies may freely transfer their funds, gold or currency from one country to another or within any country and convert any currency held by them into any other currency.

Section 8

Each specialized agency shall, in exercising its rights under section 7 above, pay due regard to any representations made by the Government of any State party to this Convention in so far as it is considered that effect can be given to such representations without detriment to the interests of the agency.

Section 9

The specialized agencies, their assets, income and other property shall be:

(a) Exempt from all direct taxes; it is understood, however, that the specialized agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialized agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country;

(c) Exempt from duties and prohibitions and restrictions on imports and exports in respect of their publications.

Section 10

While the specialized agencies will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the specialized agencies are making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, States parties to this Convention will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE IV

Facilities in respect of communications

Section 11

Each specialized agency shall enjoy, in the territory of each State party to this Convention in respect of that agency, for its official communications, treatment not less favourable than that accorded by the Government of such State to any other Government, including the latter's diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

Section 7

Sans être astreintes à aucun contrôle, réglementation ou moratoire financiers:

a) Les institutions spécialisées peuvent détenir des fonds, de l'or ou des devises de toute nature et avoir des comptes en n'importe quelle monnaie;

b) Les institutions spécialisées peuvent transférer librement leurs fonds, leur or ou leurs devises d'un pays dans un autre ou à l'intérieur d'un pays quelconque et convertir toutes devises détenues par elles en toute autre monnaie.

Section 8

Dans l'exercice des droits qui lui sont accordés en vertu de la section 7 ci-dessus, chacune des institutions spécialisées tiendra compte de toutes représentations qui lui seraient faites par le Gouvernement de tout Etat partie à la présente Convention dans la mesure ou elle estimera pouvoir y donner suite sans porter préjudice à ses propres intérêts.

Section 9

Les institutions spécialisées, leurs avoirs, revenus et autres biens sont:

a) Exonérés de tout impôt direct; il est entendu, toutefois, que les institutions spécialisées ne demanderont pas l'exonération d'impôts qui ne seraient pas en excès de la simple rémunération de services d'utilité publique;

b) Exonérés de tout droit de douane et de toutes prohibitions et restrictions d'importation ou d'exportation à l'égard d'objets importés ou exportés par les institutions spécialisées pour leur usage officiel; il est entendu, toutefois, que les articles ainsi importés en franchise ne seront pas vendus sur le territoire du pays dans lequel ils auront été introduits, à moins que ce ne soit à des conditions agréées par le Gouvernement de ce pays;

c) Exonérés de tout droit de douane et de toutes prohibitions et restrictions d'importation ou d'exportation à l'égard de leurs publications.

Section 10

Bien que les institutions spécialisées ne revendent pas, en règle générale, l'exonération des droits d'accise et des taxes à la vente entrant dans le prix des biens mobiliers ou immobiliers, cependant, quand elles effectuent pour leur usage officiel des achats importants dont le prix comprend des droits et taxes de cette nature, les Etats parties à la présente Convention prendront, chaque fois qu'il leur sera possible, les arrangements administratifs appropriés en vue de la remise ou du remboursement du montant de ces droits et taxes.

ARTICLE IV

Facilités de communications

Section 11

Chacune des institutions spécialisées jouira, pour ses communications officielles, sur le territoire de tout Etat partie à la présente Convention en ce qui concerne cette institution, d'un traitement non moins favorable que le traitement accordé par le Gouvernement de cet Etat à tout autre Gouvernement, y compris à sa mission diplomatique, en matière de priorités, tarifs et taxes sur le courrier, les câblogrammes, télégrammes, radiotélégrammes, téléphotos, communications téléphoniques et autres communications, ainsi qu'en matière de tarifs de presse pour les informations à la presse et à la radio.

Section 12

No censorship shall be applied to the official correspondence and other official communications of the specialized agencies.

The specialized agencies shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Convention and a specialized agency.

ARTICLE V

Representatives of members

Section 13

Representatives of members at meetings convened by a specialized agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

(b) Inviolability for all papers and documents;

(c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;

(d) Exemption in respect of themselves and their spouses from immigration restrictions, aliens' registration or national service obligations in the State which they are visiting or through which they are passing in the exercise of their functions;

(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(f) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

Section 14

In order to secure for the representatives of members of the specialized agencies at meetings convened by them complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

Section 15

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of members of the specialized agencies at meetings convened by them are present in a member State for the discharge of their duties shall not be considered as periods of residence.

Section 16

Privileges and immunities are accorded to the representatives of members, not for the personal

Section 12

La correspondance officielle et les autres communications officielles des institutions spécialisées ne pourront être censurées.

Les institutions spécialisées auront le droit d'employer des codes ainsi que d'expédier et de recevoir leur correspondance par des courriers ou valises scellées qui jouiront des mêmes privilèges et immunités que les courriers et valises diplomatiques.

La présente section ne pourra en aucune manière être interprétée comme interdisant l'adoption de mesures de sécurité appropriées à déterminer suivant accord entre l'Etat partie à la présente Convention et une institution spécialisée.

ARTICLE V

Représentants des membres

Section 13

Les représentants des membres aux réunions convoquées par une institution spécialisée jouissent, pendant l'exercice de leurs fonctions et au cours de leurs voyages à destination ou en provenance du lieu de la réunion, des privilèges et immunités suivants:

a) Immunité d'arrestation ou de détention et de saisie de leurs bagages personnels et, en ce qui concerne les actes accomplis par eux en leur qualité officielle (y compris leurs paroles et écrits), immunité de toute juridiction;

b) Inviolabilité de tous papiers et documents;

c) Droit de faire usage de codes et de recevoir des documents ou de la correspondance par courriers ou par valises scellées;

d) Exemption pour eux-mêmes et pour leurs conjoints à l'égard de toutes mesures restrictives relatives à l'immigration, de toutes formalités d'enregistrement des étrangers, et de toutes obligations de service national dans les pays visités ou traversés par eux dans l'exercice de leurs fonctions;

e) Mêmes facilités en ce qui concerne les restrictions monétaires ou de change que celles qui sont accordées aux représentants de Gouvernements étrangers en mission officielle temporaire;

f) Mêmes immunités et facilités en ce qui concerne leurs bagages personnels que celles qui sont accordées aux membres des missions diplomatiques d'un rang comparable.

Section 14

En vue d'assurer aux représentants des membres des institutions spécialisées aux réunions convoquées par elles une complète liberté de parole et une complète indépendance dans l'accomplissement de leurs fonctions, l'immunité de juridiction en ce qui concerne les paroles ou les écrits ou les actes émanant d'eux dans l'accomplissement de leurs fonctions continuera à leur être accordée même après que le mandat de ces personnes aura pris fin.

Section 15

Dans le cas où l'incidence d'un impôt quelconque est subordonnée à la résidence de l'assujéti, les périodes pendant lesquelles les représentants des membres des institutions spécialisées aux réunions convoquées par celles-ci se trouveront sur le territoire d'un membre pour l'exercice de leurs fonctions ne seront pas considérées comme des périodes de résidence.

Section 16

Les privilèges et immunités sont accordés aux représentants des membres, non pour leur bénéfice

benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the specialized agencies. Consequently, a member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

Section 17

The provisions of sections 13, 14 and 15 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

ARTICLE VI Officials

Section 18

Each specialized agency will specify the categories of officials to which the provisions of this article and of article VIII shall apply. It shall communicate them to the Governments of all States parties to this Convention in respect of that agency and to the Secretary-General of the United Nations. The names of the officials included in these categories shall from time to time be made known to the above-mentioned Governments.

Section 19

Officials of the specialized agencies shall:

(a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies and on the same conditions as are enjoyed by officials of the United Nations;

(c) Be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(d) Be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;

(e) Be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;

(f) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

Section 20

The officials of the specialized agencies shall be exempt from national service obligations, provided that, in relation to the States of which they are nationals, such exemption shall be confined to officials of the specialized agencies whose names have, by reason of their duties, been placed upon a list compiled by the executive head of the specialized agency and approved by the State concerned.

Should other officials of specialized agencies be called up for national service, the State concerned shall, at the request of the specialized agency

personnel, mais dans le but d'assurer en toute indépendance l'exercice de leurs fonctions en ce qui concerne les institutions spécialisées. Par conséquent, un membre a non seulement le droit, mais le devoir de lever l'immunité de son représentant dans tous les cas où, à son avis, l'immunité empêcherait que justice ne soit faite et où l'immunité peut être levée sans nuire au but pour lequel elle est accordée.

Section 17

Les dispositions des sections 13, 14 et 15 ne sont pas opposables aux autorités de l'Etat dont la personne est ressortissante ou dont elle est ou a été le représentant.

ARTICLE VI Fonctionnaires

Section 18

Chaque institution spécialisée déterminera les catégories de fonctionnaires auxquelles s'appliquent les dispositions du présent article ainsi que celles de l'article VIII. Elle en donnera communication aux Gouvernements de tous les Etats parties à la présente Convention en ce qui concerne ladite institution ainsi qu'au Secrétaire général des Nations Unies. Les noms des fonctionnaires compris dans ces catégories seront communiqués de temps à autre aux Gouvernements précités.

Section 19

Les fonctionnaires des institutions spécialisées:

a) Jouiront de l'immunité de juridiction pour les actes accomplis par eux en leur qualité officielle (y compris leurs paroles et écrits);

b) Jouiront, en ce qui concerne les traitements et émoluments qui leur sont versés par les institutions spécialisées, des mêmes exonérations d'impôt que celles dont jouissent les fonctionnaires de l'Organisation des Nations Unies, et dans les mêmes conditions;

c) Ne seront pas soumis, non plus que leurs conjoints et les membres de leur famille vivant à leur charge, aux mesures restrictives relatives à l'immigration, ni aux formalités d'enregistrement des étrangers;

d) Jouiront, en ce qui concerne les facilités de change, des mêmes privilèges que les membres des missions diplomatiques d'un rang comparable;

e) Jouiront, en période de crise internationale, ainsi que leurs conjoints et les membres de leur famille vivant à leur charge, des mêmes facilités de rapatriement que les membres des missions diplomatiques de rang comparable;

f) Jouiront du droit d'importer en franchise leur mobilier et leurs effets à l'occasion de leur première prise de fonction dans le pays intéressé.

Section 20

Les fonctionnaires des institutions spécialisées seront exempts de toute obligation relative au service national. Toutefois, cette exemption sera, par rapport aux Etats dont ils sont les ressortissants, limitée à ceux des fonctionnaires des institutions spécialisées qui, en raison de leurs fonctions, auront été nommément désignés sur une liste établie par le directeur général de l'institution spécialisée et approuvée par l'Etat dont ils sont les ressortissants.

En cas d'appel au service national d'autres fonctionnaires des institutions spécialisées, l'Etat intéressé accordera, à la demande de l'institution spé-

concerned, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

Section 21

In addition to the immunities and privileges specified in sections 19 and 20, the executive head of each specialized agency, including any official acting on his behalf during his absence from duty, shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

Section 22

Privileges and immunities are granted to officials in the interests of the specialized agencies only and not for the personal benefit of the individuals themselves. Each specialized agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialized agency.

Section 23

Each specialized agency shall co-operate at all times with the appropriate authorities of member States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connexion with the privileges, immunities and facilities mentioned in this article.

ARTICLE VII **Abuses of privilege**

Section 24

If any State party to this Convention considers that there has been an abuse of a privilege or immunity conferred by this Convention, consultations shall be held between that State and the specialized agency concerned to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the State and the specialized agency concerned, the question whether an abuse of a privilege or immunity has occurred shall be submitted to the International Court of Justice in accordance with section 32. If the International Court of Justice finds that such an abuse has occurred, the State party to this Convention affected by such abuse shall have the right, after notification to the specialized agency in question, to withhold from the specialized agency concerned the benefits of the privilege or immunity so abused.

Section 25

1. Representatives of members at meetings convened by specialized agencies, while exercising their functions and during their journeys to and from the place of meeting, and officials within the meaning of section 18, shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of abuse of privileges of residence committed by any such person in activities in that country outside his official functions, he may be required to leave by the Government of that country provided that:

cialisée, les sursis d'appel qui pourraient être nécessaires en vue d'éviter l'interruption d'un service essentiel.

Section 21

Outre les privilèges et immunités prévus aux sections 19 et 20, le directeur général de chaque institution spécialisée, ainsi que tout fonctionnaire agissant en son nom pendant son absence, tant en ce qui le concerne qu'en ce qui concerne ses conjoints et enfants mineurs, jouira des privilèges, immunités, exemptions et facilités accordés, conformément au droit international, aux envoyés diplomatiques.

Section 22

Les privilèges et immunités sont accordés aux fonctionnaires uniquement dans l'intérêt des institutions spécialisées et non pour leur bénéfice personnel. Chaque institution spécialisée pourra et devra lever l'immunité accordée à un fonctionnaire dans tous les cas où, à son avis, cette immunité empêcherait que justice ne soit faite et où l'immunité peut être levée sans porter préjudice aux intérêts de l'institution spécialisée.

Section 23

Chaque institution spécialisée collaborera en tout temps avec les autorités compétentes des Etats membres en vue de faciliter la bonne administration de la justice, d'assurer l'observation des règlements de police et d'éviter tout abus auquel pourraient donner lieu les privilèges, immunités et facilités énumérés au présent article.

ARTICLE VII **Abus des privilèges**

Section 24

Si un Etat partie à la présente Convention estime qu'il y a eu abus d'un privilège ou d'une immunité accordés par la présente Convention, des consultations auront lieu entre cet Etat et l'institution spécialisée intéressée en vue de déterminer si un tel abus s'est produit et, dans l'affirmative, d'essayer d'en prévenir la répétition. Si de telles consultations n'aboutissent pas à un résultat satisfaisant pour l'Etat et l'institution spécialisée intéressée, la question de savoir s'il y a eu abus d'un privilège ou d'une immunité sera portée devant la Cour internationale de Justice, conformément à la section 32. Si la Cour internationale de Justice constate qu'un tel abus s'est produit, l'Etat partie à la présente Convention et affecté par ledit abus aura le droit, après notification à l'institution spécialisée intéressée, de cesser d'accorder, dans ses rapports avec cette institution, le bénéfice du privilège ou de l'immunité dont il aurait été fait abus.

Section 25

1. Les représentants des membres aux réunions convoquées par les institutions spécialisées, pendant l'exercice de leurs fonctions et au cours de leurs voyages à destination ou en provenance du lieu de réunion, ainsi que les fonctionnaires visés à la section 18, ne seront pas contraints par les autorités territoriales de quitter le pays dans lequel ils exercent leurs fonctions en raison d'activités exercées par eux en leur qualité officielle. Toutefois, dans le cas où une telle personne abuserait du privilège de résidence en exerçant dans ce pays des activités sans rapport avec ses fonctions officielles, elle pourra être contrainte de quitter le pays par le Gouvernement de celui-ci, sous réserve des dispositions ci-après:

2. (1) Representatives of members, or persons who are entitled to diplomatic immunity under section 21, shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to that country.

(II) In the case of an official to whom section 21 is not applicable, no order to leave the country shall be issued other than with the approval of the Foreign Minister of the country in question, and such approval shall be given only after consultation with the executive head of the specialized agency concerned; and, if expulsion proceedings are taken against an official, the executive head of the specialized agency shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

ARTICLE VIII Laissez-passer

Section 26

Officials of the specialized agencies shall be entitled to use the United Nations *laissez-passer* in conformity with administrative arrangements to be concluded between the Secretary-General of the United Nations and the competent authorities of the specialized agencies, to which agencies special powers to issue *laissez-passer* may be delegated. The Secretary-General of the United Nations shall notify each State party to this Convention of each administrative arrangement so concluded.

Section 27

States parties to this Convention shall recognize and accept the United Nations *laissez-passer* issued to officials of the specialized agencies as valid travel documents.

Section 28

Applications for visas, where required, from officials of specialized agencies holding United Nations *laissez-passer*, when accompanied by a certificate that they are travelling on the business of a specialized agency, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

Section 29

Similar facilities to those specified in section 28 shall be accorded to experts and other persons who, though not the holders of United Nations *laissez-passer*, have a certificate that they are travelling on the business of a specialized agency.

Section 30

The executive heads, assistant executive heads, heads of departments and other officials of a rank not lower than head of department of the specialized agencies, travelling on United Nations *laissez-passer* on the business of the specialized agencies, shall be granted the same facilities for travel as are accorded to officials of comparable rank in diplomatic missions.

ARTICLE IX Settlement of disputes

Section 31

Each specialized agency shall make provision for appropriate modes of settlement of:

2. 1) Les représentants des membres ou les personnes jouissant de l'immunité diplomatique aux termes de la section 21 ne seront pas contraints de quitter le pays si ce n'est conformément à la procédure diplomatique applicable aux envoyés diplomatiques accrédités dans ce pays.

II) Dans le cas d'un fonctionnaire auquel ne s'applique pas la section 21, aucune décision d'expulsion ne sera prise sans l'approbation du Ministre des Affaires étrangères du pays en question, approbation qui ne sera donnée qu'après consultation avec le directeur général de l'institution spécialisée intéressée; et si une procédure d'expulsion est engagée contre un fonctionnaire, le directeur général de l'institution spécialisée aura le droit d'intervenir dans cette procédure pour la personne contre laquelle la procédure est intentée.

ARTICLE VIII Laissez-passer

Section 26

Les fonctionnaires des institutions spécialisées auront le droit d'utiliser les laissez-passer des Nations Unies, et ce conformément à des arrangements administratifs qui seront négociés entre le Secrétaire général des Nations Unies et les autorités compétentes des institutions spécialisées auxquelles seront délégués les pouvoirs spéciaux de délivrer les laissez-passer. Le Secrétaire général des Nations Unies notifiera à chacun des États parties à la présente Convention les arrangements administratifs qui auront été conclus.

Section 27

Les laissez-passer des Nations Unies délivrés aux fonctionnaires des institutions spécialisées seront reconnus et acceptés comme titre valable de voyage par les États parties à la présente Convention.

Section 28

Les demandes de visas (lorsque des visas sont nécessaires) émanant de fonctionnaires des institutions spécialisées titulaires de laissez-passer des Nations Unies et accompagnées d'un certificat attestant que ces fonctionnaires voyagent pour le compte d'une institution spécialisée, devront être examinées dans le plus bref délai possible. En outre, des facilités de voyage rapide seront accordées aux titulaires de ces laissez-passer.

Section 29

Des facilités analogues à celles qui sont mentionnées à la section 28 seront accordées aux experts et autres personnes qui, sans être munis d'un laissez-passer des Nations Unies, seront porteurs d'un certificat attestant qu'ils voyagent pour le compte d'une institution spécialisée.

Section 30

Les directeurs généraux des institutions spécialisées, directeurs généraux adjoints, directeurs de département et autres fonctionnaires d'un rang au moins égal à celui de directeur de département des institutions spécialisées, voyageant pour le compte des institutions spécialisées et munis d'un laissez-passer des Nations Unies, jouiront des mêmes facilités de voyage que les membres des missions diplomatiques d'un rang comparable.

ARTICLE IX Règlement des différends

Section 31

Chaque institution spécialisée devra prévoir des modes de règlement appropriés pour:

(a) Disputes arising out of contracts or other disputes of private character to which the specialized agency is a party;

(b) Disputes involving any official of a specialized agency who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of section 22.

Section 32

All differences arising out of the interpretation or application of the present Convention shall be referred to the International Court of Justice unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between one of the specialized agencies on the one hand, and a member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court and the relevant provisions of the agreements concluded between the United Nations and the specialized agency concerned. The opinion given by the Court shall be accepted as decisive by the parties.

ARTICLE X

Annexes and application to individual specialized agencies

Section 33

In their application to each specialized agency, the standard clauses shall operate subject to any modifications set forth in the final (or revised) text of the annex relating to that agency, as provided in sections 36 and 38.

Section 34

The provisions of the Convention in relation to any specialized agency must be interpreted in the light of the functions with which that agency is entrusted by its constitutional instrument.

Section 35

Draft annexes 1 to 9 are recommended to the specialized agencies named therein. In the case of any specialized agency not mentioned by name in section 1, the Secretary-General of the United Nations shall transmit to the agency a draft annex recommended by the Economic and Social Council.

Section 36

The final text of each annex shall be that approved by the specialized agency in question in accordance with its constitutional procedure. A copy of the annex as approved by each specialized agency shall be transmitted by the agency in question to the Secretary-General of the United Nations and shall thereupon replace the draft referred to in section 35.

Section 37

The present Convention becomes applicable to each specialized agency when it has transmitted to the Secretary-General of the United Nations the final text of the relevant annex and has informed him that it accepts the standard clauses, as modified by this annex, and undertakes to give effect to sections 8, 18, 22, 23, 24, 31, 32, 42 and 45 (subject to any modification of section 32 which may be found necessary in order to make the final text of the annex consonant with the constitutional instrument of the agency) and any provisions of the annex placing obligations on the agency. The Secretary-General shall communicate to all Members of the

a) Les différends en matière de contrats ou autres différends de droit privé dans lesquels l'institution spécialisée serait partie;

b) Les différends dans lesquels serait impliqué un fonctionnaire d'une institution spécialisée qui, du fait de sa situation officielle, jouit de l'immunité, si cette immunité n'a pas été levée conformément aux dispositions de la section 22.

Section 32

Toute contestation portant sur l'interprétation ou l'application de la présente Convention sera portée devant la Cour internationale de Justice, à moins que, dans un cas donné, les parties ne conviennent d'avoir recours à un autre mode de règlement. Si un différend surgit entre une des institutions spécialisées d'une part, et un Etat membre d'autre part, un avis consultatif sur tout point de droit soulevé sera demandé en conformité de l'Article 96 de la Charte et de l'Article 65 du Statut de la Cour, ainsi que des dispositions correspondantes des accords conclus entre les Nations Unies et l'institution spécialisée intéressée. L'avis de la Cour sera accepté par les parties comme décisif.

ARTICLE X

Annexes et application de la convention à chaque institution spécialisée

Section 33

Les clauses-standard s'appliqueront à chaque institution spécialisée, sous réserve de toute modification résultant du texte final (ou révisé) de l'annexe relative à cette institution, ainsi qu'il est prévu aux sections 36 et 38.

Section 34

Les dispositions de la Convention doivent être interprétées à l'égard de chacune des institutions spécialisées en tenant compte des attributions qui lui sont assignées par son acte organique.

Section 35

Les projets d'annexes 1 à 9 constituent des recommandations aux institutions spécialisées qui y sont nommément désignées. Dans le cas d'une institution spécialisée qui n'est pas désignée à la section 1, le Secrétaire général des Nations Unies transmettra à cette institution un projet d'annexe recommandé par le Conseil économique et social.

Section 36

Le texte final de chaque annexe sera celui qui aura été approuvé par l'institution spécialisée intéressée, conformément à sa procédure constitutionnelle. Chacune des institutions spécialisées transmettra au Secrétaire général des Nations Unies une copie de l'annexe approuvée par elle, qui remplacera le projet visé à la section 35.

Section 37

La présente Convention deviendra applicable à une institution spécialisée lorsque celle-ci aura transmis au Secrétaire général des Nations Unies le texte final de l'annexe qui la concerne et lui aura notifié son acceptation des clauses-standard modifiées par l'annexe et son engagement de donner effet aux sections 8, 18, 22, 23, 24, 31, 32, 42 et 45 (sous réserve de toutes modifications de la section 32 qu'il pourrait être nécessaire d'apporter au texte final de l'annexe pour que celui-ci soit conforme à l'acte organique de l'institution) ainsi qu'à toutes dispositions de l'annexe qui imposent des obligations à l'institution. Le Secrétaire général communiquera

United Nations and to other States members of the specialized agencies certified copies of all annexes transmitted to him under this section and of revised annexes transmitted under section 38.

Section 38

If, after the transmission of a final annex under section 36, any specialized agency approves any amendments thereto in accordance with its constitutional procedure, a revised annex shall be transmitted by it to the Secretary-General of the United Nations.

Section 39

The provisions of this Convention shall in no way limit or prejudice the privileges and immunities which have been, or may hereafter be, accorded by any State to any specialized agency by reason of the location in the territory of that State of its headquarters or regional offices. This Convention shall not be deemed to prevent the conclusion between any State party thereto and any specialized agency of supplemental agreements adjusting the provisions of this Convention or extending or curtailing the privileges and immunities thereby granted.

Section 40

It is understood that the standard clauses, as modified by the final text of an annex sent by a specialized agency to the Secretary-General of the United Nations under section 36 (or any revised annex sent under section 38), will be consistent with the provisions of the constitutional instrument then in force of the agency in question, and that if any amendment to that instrument is necessary for the purpose of making the constitutional instrument so consistent, such amendment will have been brought into force in accordance with the constitutional procedure of that agency before the final (or revised) annex is transmitted.

The Convention shall not itself operate so as to abrogate, or derogate from, any provisions of the constitutional instrument of any specialized agency or any rights or obligations which the agency may otherwise have, acquire, or assume.

ARTICLE XI Final provisions

Section 41

Accession to this Convention by a Member of the United Nations and (subject to section 42) by any State member of a specialized agency shall be effected by deposit with the Secretary-General of the United Nations of an instrument of accession which shall take effect on the date of its deposit.

Section 42

Each specialized agency concerned shall communicate the text of this Convention together with the relevant annexes to those of its members which are not Members of the United Nations and shall invite them to accede thereto in respect of that agency by depositing an instrument of accession to this Convention in respect thereof either with the Secretary-General of the United Nations or with the executive head of the specialized agency.

à tous les Membres de l'Organisation des Nations Unies ainsi qu'à tous autres Etats membres des institutions spécialisées des copies certifiées conformes de toutes les annexes qui lui auraient été transmises en vertu de la présente section, ainsi que des annexes révisées transmises en vertu de la section 38.

Section 38

Si une institution spécialisée, après avoir transmis le texte final d'une annexe conformément à la section 36, adopte conformément à sa procédure constitutionnelle certains amendements à cette annexe, elle transmettra le texte révisé de l'annexe au Secrétaire général des Nations Unies.

Section 39

Les dispositions de la présente Convention ne comporteront aucune limitation et ne porteront en rien préjudice aux privilèges et immunités qui ont été déjà ou qui pourraient être accordés par un Etat à une institution spécialisée en raison de l'établissement de son siège ou de ses bureaux régionaux sur le territoire de cet Etat. La présente Convention ne saurait être interprétée comme interdisant la conclusion entre un Etat partie et une institution spécialisée d'accords additionnels tendant à l'aménagement des dispositions de la présente Convention, à l'extension ou à la limitation des privilèges et immunités qu'elle accorde.

Section 40

Il est entendu que les clauses-standard modifiées par le texte final d'une annexe transmise par une institution spécialisée au Secrétaire général de l'Organisation des Nations Unies en vertu de la section 36 (ou d'une annexe révisée transmise en vertu de la section 38) devront être en harmonie avec les dispositions de l'acte organique de l'institution alors en vigueur, et que s'il est nécessaire d'apporter à cet effet un amendement à cet acte, un tel amendement devra avoir été mis en vigueur conformément à la procédure constitutionnelle de l'institution avant la transmission du texte final (ou révisé) de l'annexe.

Aucune disposition de l'acte organique d'une institution spécialisée, ni aucun droit ou obligation que cette institution peut par ailleurs posséder, acquérir ou assumer, ne sauraient être abrogés par le seul effet de la présente Convention, qui ne pourra pas davantage y apporter de dérogation.

ARTICLE XI Dispositions finales

Section 41

L'adhésion à la présente Convention par un Membre de l'Organisation des Nations Unies et (sous réserve de la section 42) par tout Etat membre d'une institution spécialisée s'effectuera par le dépôt auprès du Secrétaire général de l'Organisation des Nations Unies d'un instrument d'adhésion qui prendra effet à la date de son dépôt.

Section 42

Chaque institution spécialisée intéressée communiquera le texte de la présente Convention ainsi que des annexes qui la concernent à ceux de ses membres qui ne sont pas Membres de l'Organisation des Nations Unies; elle les invitera à adhérer à la Convention à son égard par le dépôt auprès du Secrétaire général de l'Organisation des Nations Unies ou du directeur général de ladite institution de l'instrument d'adhésion requis.

Section 43

Each State party to this Convention shall indicate in its instrument of accession the specialized agency or agencies in respect of which it undertakes to apply the provisions of this Convention. Each State party to this Convention may by a subsequent written notification to the Secretary-General of the United Nations undertake to apply the provisions of this Convention to one or more further specialized agencies. This notification shall take effect on the date of its receipt by the Secretary-General.

Section 44

This Convention shall enter into force for each State party to this Convention in respect of a specialized agency when it has become applicable to that agency in accordance with section 37 and the State party has undertaken to apply the provisions of the Convention to that agency in accordance with section 43.

Section 45

The Secretary-General of the United Nations shall inform all Members of the United Nations, as well as all members of the specialized agencies, and executive heads of the specialized agencies, of the deposit of each instrument of accession received under section 41 and of subsequent notifications received under section 43. The executive head of a specialized agency shall inform the Secretary-General of the United Nations and the members of the agency concerned of the deposit of any instrument of accession deposited with him under section 42.

Section 46

It is understood that, when an instrument of accession or a subsequent notification is deposited on behalf of any State, this State will be in a position under its own law to give effect to the terms of this Convention, as modified by the final texts of any annexes relating to the agencies covered by such accessions or notifications.

Section 47

1. Subject to the provisions of paragraph 2 and 3 of this section, each State party to this Convention undertakes to apply this Convention in respect of each specialized agency covered by its accession or subsequent notification, until such time as a revised convention or annex shall have become applicable to that agency and the said State shall have accepted the revised convention or annex. In the case of a revised annex, the acceptance of States shall be by a notification addressed to the Secretary-General of the United Nations, which shall take effect on the date of its receipt by the Secretary-General.

2. Each State party to this Convention, however, which is not, or has ceased to be, a member of a specialized agency, may address a written notification to the Secretary-General of the United Nations and the executive head of the agency concerned to the effect that it intends to withhold from that agency the benefits of this Convention as from a specified date, which shall not be earlier than three months from the date of receipt of the notification.

Section 43

Tout Etat partie à la présente Convention désignera dans son instrument d'adhésion l'institution spécialisée ou les institutions spécialisées à laquelle ou auxquelles il s'engage à appliquer les dispositions de la présente Convention. Tout Etat partie à la présente Convention pourra, par une notification ultérieure écrite au Secrétaire général de l'Organisation des Nations Unies, s'engager à appliquer les dispositions de la présente Convention à une ou plusieurs autres institutions spécialisées. Ladite notification prendra effet à la date de sa réception par le Secrétaire général.

Section 44

La présente Convention entrera en vigueur entre tout Etat partie à ladite Convention et une institution spécialisée quand elle sera devenue applicable à cette institution conformément à la section 37 et que l'Etat partie aura pris l'engagement d'appliquer les dispositions de la présente Convention à cette institution conformément à la section 43.

Section 45

Le Secrétaire général de l'Organisation des Nations Unies informera tous les Etats Membres de l'Organisation des Nations Unies de même que tous les Etats membres des institutions spécialisées et les directeurs généraux des institutions spécialisées, du dépôt de chaque instrument d'adhésion reçu en vertu de la section 41, et de toutes notifications ultérieures reçues en vertu de la section 43. Le directeur général de chaque institution spécialisée informera le Secrétaire général de l'Organisation des Nations Unies et les membres de l'institution intéressée du dépôt de tout instrument d'adhésion déposé auprès de lui en vertu de la section 42.

Section 46

Il est entendu que lorsqu'un instrument d'adhésion ou une notification ultérieure sont déposés au nom d'un Etat quelconque, celui-ci doit être en mesure d'appliquer, en vertu de son propre droit, les dispositions de la présente Convention telles que modifiées par les textes finaux de toutes annexes relatives aux institutions visées par les adhésions ou notifications susmentionnées.

Section 47

1. Sous réserve des dispositions des paragraphes 2 et 3 de la présente section, tout Etat partie à la présente Convention s'engage à appliquer ladite Convention à chacune des institutions spécialisées visée par cet Etat dans son instrument d'adhésion ou dans une notification ultérieure, jusqu'à ce qu'une Convention ou annexe révisée soit devenue applicable à cette institution et que ledit Etat ait accepté la Convention ou l'annexe ainsi révisée. Dans le cas d'une annexe révisée, l'acceptation des Etats s'effectuera par une notification adressée au Secrétaire général des Nations Unies, qui prendra effet au jour de sa réception par le Secrétaire général.

2. Cependant, tout Etat partie à la présente Convention qui n'est pas ou qui a cessé d'être membre d'une institution spécialisée peut adresser une notification écrite au Secrétaire général des Nations Unies et au directeur général de l'institution intéressée pour l'informer qu'il entend cesser de lui accorder le bénéfice de la présente Convention à partir d'une date déterminée qui ne pourra précéder de moins de trois mois celle de la réception de cette notification.

3. Each State party to this Convention may withhold the benefit of this Convention from any specialized agency which ceases to be in relationship with the United Nations.

4. The Secretary-General of the United Nations shall inform all member States parties to this Convention of any notification transmitted to him under the provisions of this section.

Section 48

At the request of one-third of the States parties to this Convention, the Secretary-General of the United Nations will convene a conference with a view to its revision.

Section 49

The Secretary-General of the United Nations shall transmit copies of this Convention to each specialized agency and to the Government of each Member of the United Nations.

ANNEXES TO THE PROPOSED CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES

ANNEX I

The International Labour Organisation

The standard clauses shall operate in respect to the International Labour Organisation subject to the following provision:

The provisions of article V (other than paragraph (c) of section 13) and of section 25, paragraphs 1 and 2(I) of article VII shall extend to the employers' and workers' members of the Governing Body of the International Labour Office and their alternates and advisers, except that any waiver of the immunity of any such person member under section 16 shall be by the Governing Body.

ANNEX II

The Food and Agriculture Organization of the United Nations

The standard clauses shall operate in respect to the Food and Agriculture Organization of the United Nations (hereinafter called "the Organization") subject to the following provisions:

1. Article V and section 25, paragraphs 1 and 2 (I) of article VII shall extend to the Chairman of the Council of the Organization, except that any waiver of the immunity of the Chairman under section 16 shall be by the Council of the Organization.

2. (i) Experts (other than officials coming within the scope of article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connexion with service on such committees or missions:

(a) Immunity from personal arrest or seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written or acts done by them in the performance of their official functions, such immunity to continue notwithstanding that the persons concerned are no longer serving

3. Tout Etat partie à la présente Convention peut refuser d'accorder le bénéfice de ladite Convention à une institution spécialisée qui cesse d'être reliée à l'Organisation des Nations Unies.

4. Le Secrétaire général des Nations Unies informera tous les Etats membres parties à la présente Convention de toute notification qui lui sera transmise conformément aux dispositions de la présente section.

Section 48

A la demande du tiers des Etats parties à la présente Convention, le Secrétaire général des Nations Unies convoquera une conférence en vue de la révision de la Convention.

Section 49

Le Secrétaire général transmettra copie de la présente Convention à chacune des institutions spécialisées et aux Gouvernements de chacun des Membres des Nations Unies.

ANNEXES AU PROJET DE CONVENTION SUR LES PRIVILÈGES ET IMMUNITÉS DES INSTITUTIONS SPÉCIALISÉES

ANNEXE I

Organisation internationale du Travail

Les clauses-standard s'appliqueront à l'Organisation internationale du Travail, sous réserve de ce qui suit:

Les membres employeurs et travailleurs du conseil d'administration de l'Organisation internationale du Travail, leurs suppléants et conseillers bénéficieront des dispositions de l'article V (autres que celles du paragraphe c) de la section 13) et de celles de la section 25, paragraphes 1 et 2(I), de l'article VII, à cette exception près que toute levée de l'immunité, en vertu de la section 16, d'une telle personne, sera prononcée par le Conseil.

ANNEXE II

Organisation des Nations Unies pour l'alimentation et l'agriculture

Les clauses-standard s'appliqueront à l'Organisation des Nations Unies pour l'alimentation et l'agriculture (ci-après désignée sous le nom de "l'Organisation"), sous réserve des dispositions suivantes:

1. Le Président du Conseil de l'Organisation bénéficiera des dispositions de l'article V et de la section 25, paragraphe 1 et 2(I) de l'article VII, à cette exception près que toute levée d'immunité le concernant, en vertu de la section 16, sera prononcée par le Conseil de l'Organisation.

2. i) Les experts (autres que les fonctionnaires visés à l'article VI), lorsqu'ils exerceront des fonctions auprès des commissions de l'Organisation ou lorsqu'ils accompliront des missions pour cette dernière, jouiront des privilèges et des immunités ci-après dans la mesure où ils leur seront nécessaires pour l'exercice effectif de leurs fonctions, y compris durant les voyages effectués à l'occasion de l'exercice de leurs fonctions auprès de ces commissions ou au cours de ces missions:

a) Immunité d'arrestation personnelle ou de saisie de leurs bagages personnels;

b) Immunité de toute poursuite judiciaire en ce qui concerne les actes accomplis par eux dans l'exercice de leurs fonctions officielles (y compris leurs paroles et écrits). Les intéressés continueront à bénéficier de ladite immunité alors même qu'ils

on committees of, or employed on missions for, the Organization;

(c) The same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions.

(ii) Privileges and immunities are granted to the experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization.

ANNEX III

The International Civil Aviation Organization

The standard clauses shall operate in respect to the International Civil Aviation Organization (hereinafter called "the Organization") subject to the following provisions:

1. The privileges, immunities, exemptions and facilities referred to in section 21 of the standard clauses shall also be accorded to the President of the Council of the Organization.

2. (i) Experts (other than officials coming within the scope of article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connexion with service on such committees or missions:

(a) Immunity from personal arrest or seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written or acts done by them in the performance of their official functions, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for, the Organization;

(c) The same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;

(d) Inviolability of their papers and documents relating to the work on which they are engaged for the Organization.

(ii) In connexion with (d) of 2 above, the principle contained in the last sentence of section 12 of the standard clauses shall be applicable.

(iii) Privileges and immunities are granted to the experts of the Organization in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

n'exerceraient plus de fonctions auprès des commissions de l'Organisation ou qu'ils ne seraient plus chargés de mission pour le compte de cette dernière;

c) Les mêmes facilités en ce qui concerne les réglementations monétaires et de change et en ce qui concerne leurs bagages personnels que celles accordées aux fonctionnaires des Gouvernements étrangers en mission officielle temporaire.

ii) Les privilèges et immunités sont accordés aux experts dans l'intérêt de l'Organisation et non en vue de leur avantage personnel. L'Organisation pourra et devra lever l'immunité accordée à un expert dans tous les cas où elle estimera que cette immunité gênerait l'action de la justice et qu'elle peut être levée sans nuire aux intérêts de l'Organisation.

ANNEXE III

Organisation de l'aviation civile internationale

Les clauses-standard s'appliqueront à l'Organisation de l'aviation civile internationale (ci-après désignée sous le nom de "l'Organisation") sous réserve des dispositions suivantes:

1. Le bénéfice des privilèges, immunités, exemptions et avantages mentionnés à la section 21 des clauses-standard sera également accordé au Président du Conseil de l'Organisation.

2. i) Les experts (autres que les fonctionnaires visés à l'article VI), lorsqu'ils exerceront des fonctions auprès des commissions de l'Organisation ou lorsqu'ils accompliront des missions pour cette dernière, jouiront des privilèges et des immunités ci-après dans la mesure où ils leur seront nécessaires pour l'exercice effectif de leurs fonctions, y compris durant les voyages effectués à l'occasion de l'exercice de leurs fonctions auprès de ces commissions ou au cours de ces missions:

a) Immunité d'arrestation personnelle ou de saisie de leurs bagages personnels;

b) Immunité de toute poursuite judiciaire en ce qui concerne les actes accomplis par eux dans l'exercice de leurs fonctions officielles (y compris leurs paroles et écrits); les intéressés continueront à bénéficier de ladite immunité alors même qu'ils n'exerceraient plus de fonctions auprès des commissions de l'Organisation ou qu'ils ne seraient plus chargés de mission pour le compte de cette dernière;

c) Les mêmes facilités en ce qui concerne les réglementations monétaires et de change et en ce qui concerne leurs bagages personnels que celles qui sont accordées aux fonctionnaires des Gouvernements étrangers en mission officielle temporaire;

d) Inviolabilité de tous leurs papiers et documents relatifs aux travaux qu'ils effectuent pour le compte de l'Organisation.

ii) Le principe énoncé dans la dernière phrase de la section 12 des clauses-standard sera applicable en ce qui concerne les dispositions de l'alinéa d) du paragraphe 2 ci-dessus.

iii) Les privilèges et immunités sont accordés aux experts dans l'intérêt de l'Organisation et non en vue de leur avantage personnel. L'Organisation pourra et devra lever l'immunité accordée à un expert dans tous les cas où elle estimera que cette immunité gênerait l'action de la justice et qu'elle peut être levée sans nuire aux intérêts de l'Organisation.

ANNEX IV

The United Nations Educational, Scientific and Cultural Organization

The standard clauses shall operate in respect to the United Nations Educational, Scientific and Cultural Organization (hereinafter called "the Organization") subject to the following provisions:

1. Article V and section 25, paragraphs 1 and 2 (I) of article VII shall extend to the President of the Conference and members of the Executive Board of the Organization, their substitutes and advisers except that any waiver of the immunity of any such person of the Executive Board under section 16 shall be by the Executive Board.

2. (i) Experts (other than officials coming within the scope of article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connexion with service on such committees or missions:

(a) Immunity from personal arrest or seizure of their personal baggage;

(b) In respect of words spoken or written or acts done by them in the performance of their official functions, immunity of legal process of every kind, such immunity to continue notwithstanding that the persons concerned are no longer serving on committees of, or employed on missions for, the Organization;

(c) The same facilities in respect of currency and exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions.

(ii) Privileges and immunities are granted to the experts of the Organization in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice, and it can be waived without prejudice to the interests of the Organization.

ANNEX V

The International Monetary Fund

In their application to the International Monetary Fund (hereinafter called "the Fund"), the standard clauses shall operate subject to the following provisions:

1. The following shall be substituted for section 9:

"(a) The Fund, its assets, property, income and its operations and transactions authorized by its articles of agreement shall be immune from all taxation and from all customs duties. The Fund shall be immune from prohibitions and restrictions on imports and exports in respect of articles imported or exported for its official use and in respect of its publications. It is understood, however, that the Fund will not claim exemption from taxes which are, in fact, no more than charges for public utility services, and that articles (other than its publications)

ANNEXE IV

Organisation des Nations Unies pour l'éducation, la science et la culture

Les clauses-standard s'appliqueront à l'Organisation des Nations Unies pour l'éducation, la science et la culture (ci-après désignée sous le nom de "l'Organisation") sous réserve des dispositions suivantes:

1. Le Président de la Conférence et les membres du conseil d'administration de l'Organisation, leurs suppléants et conseillers bénéficieront des dispositions de l'article V et de la section 25, paragraphe 2(I), de l'article VII, à cette exception près que toute levée d'immunité les concernant, en vertu de la section 16, sera prononcée par le conseil d'administration.

2. i) Les experts (autres que les fonctionnaires visés à l'article VI), lorsqu'ils exerceront des fonctions auprès des commissions de l'Organisation ou lorsqu'ils accompliront des missions pour cette dernière, jouiront des privilèges et des immunités ci-après dans la mesure où ils leur seront nécessaires pour l'exercice effectif de leurs fonctions, y compris durant les voyages effectués à l'occasion de l'exercice de leurs fonctions auprès de ces commissions ou au cours de ces missions:

a) Immunité d'arrestation personnelle ou de saisie de leurs bagages personnels;

b) Immunité de toute poursuite judiciaire en ce qui concerne les actes accomplis par eux dans l'exercice de leurs fonctions officielles (y compris leurs paroles et écrits); les intéressés continueront à bénéficier de ladite immunité alors même qu'ils n'exerceraient plus de fonctions auprès des commissions de l'Organisation ou qu'ils ne seraient plus chargés de mission pour le compte de cette dernière;

c) Les mêmes facilités en ce qui concerne les réglementations monétaires et de change et en ce qui concerne leurs bagages personnels que celles qui sont accordées aux fonctionnaires des Gouvernements étrangers en mission officielle temporaire.

ii) Les privilèges et immunités sont accordés aux experts dans l'intérêt de l'Organisation et non en vue de leur avantage personnel. L'Organisation pourra et devra lever l'immunité accordée à un expert dans tous les cas où elle estimera que cette immunité gênerait l'action de la justice et qu'elle peut être levée sans nuire aux intérêts de l'Organisation.

ANNEXE V

Fonds monétaire international

Les clauses-standard s'appliqueront au Fonds monétaire international (ci-après désigné par les mots "le Fonds") sous réserve des dispositions suivantes:

1. Le texte suivant remplacera la section 9:

"a) Le Fonds, ses avoirs, ses biens, ses revenus ainsi que ses opérations et transactions autorisées par son acte constitutif seront exempts de tous impôts et de tous droits de douane. Le Fonds sera exempt de toutes prohibitions et restrictions d'importation et d'exportation pour des articles importés ou exportés pour son usage officiel et pour ses publications. Il demeure entendu toutefois que le Fonds ne demandera pas l'exonération d'impôts qui ne seraient pas en excès de la simple rémunération de services d'utilité publique, et que les articles

imported under this exemption will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country. The Fund shall also be immune from the collection or payment of any tax or duty.

“(b) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held:

“(i) Which discriminates against such obligation or security solely because of its origin; or

“(ii) If the sole jurisdictional basis for each taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.”

2. Section 32 of the standard clauses shall only apply to differences arising out of the interpretation or application of privileges and immunities which are derived by the Fund from this Convention and are not included in those which it can claim under its articles or otherwise.

ANNEX VI

The International Bank for Reconstruction and Development

In their application to the International Bank for Reconstruction and Development (hereinafter called “the Bank”), the standard clauses shall operate subject to the following provisions:

1. The following shall be substituted for section 4:

“Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.”

2. The following shall be substituted for section 9:

“(a) The Bank, its assets, property, income and its operations and transactions authorized by its articles of agreement shall be immune from all taxation and from all customs duties. The Bank shall be immune from prohibitions and restrictions on imports and exports in respect of articles imported or exported for its official use and in respect of its publications. It is understood, however, that the Bank will not claim exemption from taxes which are, in fact, no more than charges for public utility services, and that articles (other than its publications) imported under this exemption will not be sold in the country into which they were imported except under

(autres que les publications du Fonds) importés en franchise ne seront pas vendus sur le territoire du pays dans lequel ils auront été introduits, à moins que ce ne soit à des conditions agréées par le Gouvernement de ce pays. Le Fonds sera également exempt de toute obligation en ce qui concerne la perception ou le paiement d'un impôt ou d'un droit quelconque.

“(b) Aucun impôt, de quelque nature que ce soit, ne sera perçu sur une obligation ou une action quelconque émise par le Fonds, y compris tous dividendes ou intérêts de cette action ou de cette obligation, quels qu'en soient les détenteurs, si cet impôt:

“(i) Constitue une mesure de discrimination contre une telle action ou obligation du seul fait qu'elle est émise par le Fonds; ou

“(ii) Si le seul fondement juridique d'un tel impôt est le lieu dans lequel, ou la devise dans laquelle, l'action ou l'obligation est émise, rendue payable ou payée, ou l'emplacement de tout bureau ou centre de transactions que le Fonds fait fonctionner.”

2. La section 34 des clauses-standard s'appliquera uniquement aux différends provenant de l'interprétation ou de l'application des dispositions relatives aux privilèges et immunités qui sont invoqués par le Fonds en vertu de la présente Convention et qui ne font pas partie de ce qu'il peut revendiquer en vertu de son acte constitutif ou de toute autre disposition.

ANNEXE VI

Banque internationale pour la reconstruction et la mise en valeur

Les clauses-standard s'appliqueront à la Banque internationale pour la reconstruction et la mise en valeur (ci-après désignée sous le nom de “la Banque”) sous réserve des dispositions suivantes:

1. Le texte suivant remplacera la section 4:

“La Banque ne peut être poursuivie que devant un tribunal ayant juridiction sur les territoires d'un Etat membre où la Banque possède une succursale, où elle a nommé un agent en vue d'accepter des sommations ou avis de sommations, ou bien où elle a émis ou garanti des actions. Aucune poursuite ne pourra être intentée par des Etats membres ou des personnes représentant ces dits Etats membres ou tenant d'eux des droits de réclamation. Les biens et les avoirs de la Banque, où qu'ils se trouvent et quels qu'en soient les détenteurs, seront à l'abri de toute forme de saisie, d'opposition ou d'exécution, avant que le jugement final contre la Banque n'ait été rendu.”

2. Le texte suivant remplacera la section 9:

“(a) La Banque, ses avoirs, ses biens, ses revenus ainsi que ses opérations et transactions autorisées par son acte constitutif seront exempts de tous impôts et de tous droits de douane. La Banque sera exempte de toutes prohibitions et restrictions d'importation et d'exportation pour des articles importés ou exportés pour son usage officiel et pour ses publications. Il demeure entendu toutefois que la Banque ne demandera pas l'exonération d'impôts qui ne seraient pas en excès de la simple rémunération de services d'utilité publique, et que les articles (autres que les publications de la Banque) importés en franchise ne seront pas vendus sur le territoire du

condition... agreed to with the Government of that country.

"The Bank shall be immune from the collection or payment of any tax or duty.

"(b) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held:

"(i) Which discriminates against such obligation or security solely because it is issued by the Bank; or

"(ii) If the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

"(c) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held:

"(i) Which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

"(ii) If the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank."

3. Section 32 of the standard clauses shall only apply to differences arising out of the interpretation or application of privileges and immunities which are derived by the Bank from this Convention and are not included in those which it can claim under its articles or otherwise.

ANNEX VII

The World Health Organization

In their application to the World Health Organization (hereinafter called "the Organization") the standard clauses shall operate subject to the following modifications:

1. Article V and section 25, paragraphs 1 and 2 (I) of article VII shall extend to persons designated to serve on the executive board of the Organization, their alternates and advisers, except that any waiver of the immunity of any such persons under section 16 shall be by the Board.

2. (i) Experts (other than officials coming within the scope of article VI) serving on committees of, or performing missions for, the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions, including the time spent on journeys in connexion with service on such committees or missions:

(a) Immunity from personal arrest or seizure of their personal baggage;

(b) Immunity of legal process of every kind, in respect of words spoken or written or acts done by them in the performance of their official functions, such immunity to continue notwithstanding that the

pays dans lequel ils auront été introduits, à moins que ce ne soit à des conditions agréées par le Gouvernement de ce pays.

"La Banque sera également exempte de toute obligation en ce qui concerne la perception ou le paiement d'un impôt ou d'un droit quelconque.

"(b) Aucun impôt, de quelque nature que ce soit, ne sera perçu sur une obligation ou une action quelconque émise par la Banque, y compris tous dividendes ou intérêts de cette action ou de cette obligation, quels qu'en soient les détenteurs, si cet impôt:

"(i) Constitue une mesure de discrimination contre une telle action ou obligation du seul fait qu'elle est émise par la Banque; ou

"(ii) Si le seul fondement juridique d'un tel impôt est le lieu dans lequel, ou la devise dans laquelle, l'action ou l'obligation est émise, rendue payable ou payée, ou l'emplacement de tout bureau ou centre de transactions que la Banque fait fonctionner.

"(c) Aucun impôt de quelque nature que ce soit ne sera perçu sur une obligation ou une action quelconque garantie par la Banque (y compris tous dividendes ou intérêts de cette action ou de cette obligation), quels qu'en soient les détenteurs, si cet impôt:

"(i) Constitue une mesure de discrimination contre une telle action ou obligation du seul fait qu'elle est garantie par la Banque; ou

"(ii) Si le seul fondement juridique d'un tel impôt est l'emplacement d'un bureau ou d'un centre de transactions que la Banque fait fonctionner."

3. La section 32 des clauses-standard s'appliquera uniquement aux différends provenant de l'interprétation ou de l'application des dispositions relatives aux privilèges et immunités qui sont invoqués par la Banque en vertu de la présente Convention et qui ne font pas partie de ce qu'elle peut revendiquer en vertu de son acte constitutif ou de toute autre disposition.

ANNEXE VII

Organisation mondiale de la santé

Les clauses-standard s'appliqueront à l'Organisation mondiale de la santé (ci-après désignée sous le nom de "l'Organisation") sous réserve des dispositions suivantes:

1. Les personnes désignées pour faire partie du conseil d'administration de l'Organisation, leurs suppléants et conseillers bénéficieront des dispositions de l'article V et de la section 25, paragraphes 1 et 2 I), de l'article VII, à cette exception près que toute levée d'immunité les concernant, en vertu de la section 16, sera prononcée par le Conseil.

2. i) Les experts (autres que les fonctionnaires visés à l'article VI), lorsqu'ils exerceront des fonctions auprès des commissions de l'Organisation ou lorsqu'ils accompliront des missions pour cette dernière, jouiront des privilèges et des immunités ci-après dans la mesure où ils leur seront nécessaires pour l'exercice effectif de leurs fonctions, y compris durant les voyages effectués à l'occasion de l'exercice de leurs fonctions auprès de ces commissions ou au cours de ces missions:

a) Immunité d'arrestation personnelle ou de saisie de leurs bagages personnels;

b) Immunité de toute poursuite judiciaire en ce qui concerne les actes accomplis par eux dans l'exercice de leurs fonctions officielles (y compris leurs paroles et écrits); les intéressés continueront à béné-

persons concerned are no longer serving on committees of, or employed on missions for, the Organization;

(c) The same facilities in respect of currency and exchange restrictions, and in respect of their personal baggage, as are accorded to officials of foreign governments on temporary official missions:

(ii) Privileges and immunities are granted to the experts of the Organization in the interests of the Organization and not for the personal benefit of the individuals themselves. The Organization shall have the right and the duty to waive the immunity of any expert in any case where in its opinion the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization.

ANNEX VIII

The Universal Postal Union

The standard clauses shall apply without modification.

ANNEX IX

The International Telecommunications Union

The standard clauses shall apply without modification.

180 (III). Draft convention on genocide

The General Assembly,

Realizing the importance of the problem of combating the international crime of genocide;

Reaffirming its resolution 96(I)¹ of 11 December 1946 on the crime of genocide;

Declaring that genocide is an international crime entailing national and international responsibility on the part of individuals and States;

Noting that a large majority of the Governments of Members of the United Nations have not yet submitted their observations on the draft convention on the crime of genocide prepared by the Secretariat² and circulated to those Governments by the Secretary-General on 7 July 1947;

Considering that the Economic and Social Council has stated in its resolution of 6 August 1947³ that it proposes to proceed as rapidly as possible with the consideration of the question of genocide, subject to any further instructions which it may receive from the General Assembly,

Requests the Economic and Social Council to continue the work it has begun concerning the suppression of the crime of genocide, including the study of the draft convention prepared by the Secretariat, and to proceed with the completion of a convention, taking into account that the International Law Commission, which will be set up in

¹ See *Resolutions adopted by the General Assembly* during the second part of its first session, page 144.

² See document E/447.

³ See *Resolutions adopted by the Economic and Social Council* during its fifth session, resolution 77(V), page 21.

ficier de ladite immunité alors même qu'ils n'exerceraient plus de fonctions auprès des commissions de l'Organisation ou qu'ils ne seraient plus chargés de mission pour le compte de cette dernière;

c) Les mêmes facilités en ce qui concerne les réglementations monétaires et de change et en ce qui concerne leurs bagages personnels que celles accordées aux fonctionnaires des Gouvernements étrangers en mission officielle temporaire.

ii) Les privilèges et immunités sont accordés aux experts dans l'intérêt de l'Organisation et non en vue de leur avantage personnel. L'Organisation pourra et devra lever l'immunité accordée à un expert dans tous les cas où elle estimera que cette immunité gênerait l'action de la justice et qu'elle peut être levée sans nuire aux intérêts de l'Organisation.

ANNEXE VIII

Union postale universelle

Les clauses-standard s'appliqueront sans modification.

ANNEXE IX

Union internationale des télécommunications

Les clauses-standard s'appliqueront sans modification.

180 (III). Projet de convention sur le génocide

L'Assemblée générale,

Considérant l'importance du problème de la lutte contre le crime de génocide en tant que crime international;

Réaffirmant sa résolution 96(I)¹ en date du 11 décembre 1946 sur le crime de génocide;

Déclarant que le crime de génocide est un crime international qui comporte des responsabilités d'ordre national et international pour les individus et pour les Etats;

Constatant que la grande majorité des Gouvernements des Etats Membres de l'Organisation des Nations Unies n'ont pas encore présenté leurs observations sur le projet de convention préparé par le Secrétariat² concernant le crime de génocide qui leur avait été soumis par le Secrétaire générale le 7 juillet 1947;

Considérant que le Conseil économique et social a déclaré, dans sa résolution en date du 6 août 1947³, qu'il se propose de poursuivre l'examen de la question du génocide aussi rapidement que possible, sous réserve de nouvelles instructions de l'Assemblée générale,

Invite le Conseil économique et social à poursuivre les travaux qu'il a commencés sur la répression du crime de génocide, travaux qui comprennent l'étude du projet de convention préparé par le Secrétariat, et à procéder à l'établissement du texte définitif d'une convention en tenant compte du fait que la Commission de droit

¹ Voir les *Résolutions adoptées par l'Assemblée générale* pendant la seconde partie de sa première session, page 144, 189.

² Voir document E/447.

³ Voir les *Résolutions adoptées par le Conseil économique et social* pendant sa cinquième session, résolution 77(V), pages 21-22.

Ps & Is for WTO

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
ARTICLE I : Definitions and scope		
<p><i>Section 1</i> In this Convention:</p> <p>(i) The words “standard clauses” refer to the provisions of articles II to IX.</p> <p>(ii) The words “specialized agencies” mean:</p> <p>(a) The International Labour Organization;</p> <p>(b) The Food and Agriculture Organization of the United Nations;</p> <p>(c) The United Nations Educational, Scientific and Cultural Organization;</p> <p>(d) The International Civil Aviation Organization;</p> <p>(e) The International Monetary Fund;</p> <p>(f) The International Bank for Reconstruction and Development;</p> <p>(g) The World Health Organization;</p> <p>(h) The Universal Postal Union;</p> <p>(i) The International Telecommunications Union; and</p>	<p>No</p> <p>No</p>	<p>This part of the section is not relevant to the WTO.</p> <p>This part of the section is not relevant to the WTO.</p>

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p>(j) Any other agency in relationship with the United Nations in accordance with Articles 57 and 63 of the Charter.</p> <p>(iii) The word “Convention” means, in relation to any particular specialized agency, the standard clauses as modified by the final (or revised) text of the annex transmitted by that agency in accordance with sections 36 and 38.</p> <p>(iv) For the purpose of article III, the words “property and assets” shall also include property and funds administered by a specialized agency in furtherance of its constitutional functions.</p> <p>(v) For the purposes of articles V and VII, the expression “representatives of members” shall be deemed to include all representatives, alternates, advisers, technical experts and secretaries of delegations.</p>	<p>No</p> <p>Yes</p> <p>Yes</p>	<p>This part of the section is not relevant to the WTO.</p> <p>To clarify the definition of “property and assets” of the WTO.</p> <p>To clarify the definition of “representatives of WTO members”.</p>

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
ARTICLE II : Juridical personality		
<p><i>Section 3</i></p> <p>The specialized agencies shall possess juridical personality. They shall have the capacity (a) to contract, (b) to acquire and dispose of immovable and movable property, (c) to institute legal proceedings.</p>	Yes	To state that the WTO shall have legal personality, according to Article VIII.1 of the Marrakesh Agreement.
ARTICLE III : Property, funds and assets		
<p><i>Section 4</i></p> <p>The specialized agencies, their property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case they have expressly waived their immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.</p>	Yes	To give effect to Ps & Is for the WTO as an international organization in respect of its property and assets.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 5</i></p> <p>The premises of the specialized agencies shall be inviolable. The property and assets of the specialized agencies, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.</p>	Yes	To give effect to Ps & Is for the WTO as an international organization in respect of its property and assets.
<p><i>Section 6</i></p> <p>The archives of the specialized agencies, and in general all documents belonging to them or held by them, shall be inviolable, wherever located.</p>	Yes	To give effect to Ps & Is for the WTO as an international organization in respect of its archives and documents.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 7</i></p> <p>Without being restricted by financial controls, regulations or moratoria of any kind:</p> <p>(a) The specialized agencies may hold funds, gold or currency of any kind and operate accounts in any currency;</p> <p>(b) The specialized agencies may freely transfer their funds, gold or currency from one country to another or within any country and convert any currency held by them into any other currency.</p>	No	As there is no exchange control in Hong Kong, the implementation of this section does not require an exception to be made to the existing laws.
<p><i>Section 8</i></p> <p>Each specialized agency shall, in exercising its rights under section 7 above, pay due regard to any representations made by the Government of any State party to this Convention in so far as it is considered that effect can be given to such representations without detriment to the interests of the agency.</p>	No	As there is no exchange control in Hong Kong, the implementation of this section does not require an exception to be made to the existing laws.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 9</i></p> <p>The specialized agencies, their assets, income and other property shall be:</p> <p>(a) Exempt from all direct taxes; it is understood, however, that the specialized agencies will not claim exemption from taxes which are, in fact, no more than charges for public utility services;</p> <p>(b) Exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the specialized agencies for their official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed to with the Government of that country;</p> <p>(c) Exempt from duties and prohibitions and restrictions on imports and exports in respect of their publications.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>To give effect to Ps & Is for the WTO as an international organization in respect of taxes and duties.</p>

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 10</i></p> <p>While the specialized agencies will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the specialized agencies are making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, States parties to this Convention will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.</p>	No	<p>The first part of this section refers to the expected behaviour of the WTO. The last part of this section may be implemented by administrative means under existing laws.</p>

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
ARTICLE IV : Facilities in respect of communications		
<p><i>Section 11</i></p> <p>Each specialized agency shall enjoy, in the territory of each State party to this Convention in respect of that agency, for its official communications, treatment not less favourable than that accorded by the Government of such State to any other Government, including the latter's diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.</p>	Yes	To give effect to Ps & Is for the WTO as an international organization in respect of communications.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 12</i></p> <p>No censorship shall be applied to the official correspondence and other official communications of the specialized agencies.</p> <p>The specialized agencies shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.</p> <p>Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a State party to this Convention and a specialized agency.</p>	Yes	To give effect to Ps & Is for the WTO as an international organization in respect of communications.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
ARTICLE V : Representatives of members		
<p><i>Section 13</i></p> <p>Representatives of members at meetings convened by a specialized agency shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:</p> <p>(a) Immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;</p> <p>(b) Inviolability for all papers and documents;</p> <p>(c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>To give effect to prescribed Ps & Is set out in section 13(a), (b), (c) and (f) for representatives of WTO members. In our view, the Ps & Is prescribed in this section are intended purely for the purpose of facilitating meetings convened by the WTO. This understanding will be clearly reflected in the subsidiary legislation. Section 16 further reinforces that Ps & Is accorded to the representatives of WTO members are not for their personal benefit, and each WTO member is under a duty to waive the immunity of its representatives when deemed necessary. This section will be reflected in the subsidiary legislation. Section 25 further stipulates that representatives of WTO members abusing their Ps & Is may be required to leave the receiving country/territory. This section may be implemented by administrative means.</p>

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1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
(d) Exemption in respect of themselves and their spouses from immigration restrictions, aliens' registration or national service obligations in the State which they are visiting or through which they are passing in the exercise of their functions;	No	Section 13(d) is not applicable because Hong Kong does not have the requirement of national service obligations. The rest of section 13(d) may be implemented by administrative means under existing laws.
(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;	No	As there is no exchange control in Hong Kong, the implementation of section 13(e) does not require an exception to be made to the existing laws.
(f) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.	Yes	

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 14</i></p> <p>In order to secure for the representatives of members of the specialized agencies at meetings convened by them complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.</p>	Yes	<p>To give effect to Ps & Is for representatives of WTO members in respect of freedom of speech. In our view, the Ps & Is prescribed in this section are intended purely for the purpose of facilitating meetings convened by the WTO. This understanding will be clearly reflected in the subsidiary legislation. Section 16 further reinforces that Ps & Is accorded to the representatives of WTO members are not for their personal benefit, and each WTO member is under a duty to waive the immunity of its representatives when deemed necessary. This section will be reflected in the subsidiary legislation. Section 25 further stipulates that representatives of WTO members abusing their Ps & Is may be required to leave the receiving country/territory. This section may be implemented by administrative means.</p>

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1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 15</i></p> <p>Where the incidence of any form of taxation depends upon residence, periods during which the representatives of members of the specialized agencies at meetings convened by them are present in a member State for the discharge of their duties shall not be considered as periods of residence.</p>	Yes	To give effect to the Ps & Is for representatives of WTO members in respect of taxation.
<p><i>Section 16</i></p> <p>Privileges and immunities are accorded to the representatives of members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the specialized agencies. Consequently, a member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.</p>	Yes	To clarify the purpose of providing Ps & Is to representatives of WTO members and to remind each WTO member of its duty to waive the immunities as necessary.

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1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 17</i></p> <p>The provisions of sections 13, 14 and 15 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.</p>	Yes	To exclude the application of provisions 13, 14 and 15 to representatives of the HKSAR at the WTO and permanent residents of the HKSAR.
ARTICLE VI : Officials		
<p><i>Section 18</i></p> <p>Each specialized agency will specify the categories of officials to which the provisions of this article and of article VIII shall apply. It shall communicate them to the Governments of all States parties to this Convention in respect of that agency and to the Secretary-General of the United Nations. The names of the officials included in these categories shall from time to time be made known to the above-mentioned Governments.</p>	No	This provision may be implemented by co-ordination with the WTO.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 19</i></p> <p>Officials of the specialized agencies shall:</p> <p>(a) Be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;</p> <p>(b) Enjoy the same exemptions from taxation in respect of the salaries and emoluments paid to them by the specialized agencies and on the same conditions as are enjoyed by officials of the United Nations;</p>	<p>Yes</p> <p>Yes</p>	<p>To give effect to Ps & Is prescribed in section 19(a) for WTO officials. Such Ps & Is are however confined to acts performed by WTO officials in their official capacity. Section 22 states that such Ps & Is are granted to officials not for their personal benefit and the WTO shall have the right and duty to waive the immunity of any official. This section will be reflected in the subsidiary legislation. Section 25 further stipulates that WTO officials abusing their Ps & Is may be required to leave the receiving country/territory. This section may be implemented by administrative means.</p> <p>To give effect to Ps & Is for WTO officials on taxation of salaries and emoluments.</p>

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1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
(c) Be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;	No	Section 19(c) may be implemented by administrative means under existing laws.
(d) Be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;	No	As there is no exchange control in Hong Kong, the implementation of section 19(d) does not require an exception to be made to the existing laws.
(e) Be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;	No	Section 19(e) may be implemented by administrative means under existing laws.
(f) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.	Yes	To give effect to Ps & Is for WTO officials in respect of exemption of duties.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 20</i></p> <p>The officials of the specialized agencies shall be exempt from national service obligations, provided that, in relation to the States of which they are nationals, such exemption shall be confined to officials of the specialized agencies whose names have, by reason of their duties, been placed upon a list compiled by the executive head of the specialized agency and approved by the State concerned.</p> <p>Should other officials of specialized agencies be called up for national service, the State concerned shall, at the request of the specialized agency concerned, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.</p>	No	This section is not relevant to Hong Kong because Hong Kong does not have the requirement of national service obligations.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 21</i></p> <p>In addition to the immunities and privileges specified in sections 19 and 20, the executive head of each specialized agency, including any official acting on his behalf during his absence from duty, shall be accorded in respect of himself, his spouse and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.</p>	Yes	<p>To give effect to Ps & Is for the Director-General (DG) of the WTO, his/her spouse and minor children, identical to those accorded to diplomatic envoys. Articles 30 and 37 of the Vienna Convention on Diplomatic Relations provides that a diplomatic agent and his family members (forming part of his household) are entitled to immunity from the criminal jurisdiction of the receiving state. With a few exceptions, they are also immune from the civil and administrative jurisdiction of the receiving states. That said, section 22 makes it clear that such Ps & Is are granted to WTO officials (i.e. including the DG) not for their personal benefit and the WTO shall have the right and duty to waive the immunity of any official. This section will be reflected in the subsidiary legislation. And, according to section 25, if the DG or his immediate family abuse their Ps & Is, they may be required to leave the receiving country/territory. This section will be implemented by administrative means.</p>

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 22</i></p> <p>Privileges and immunities are granted to officials in the interests of the specialized agencies only and not for the personal benefit of the individuals themselves. Each specialized agency shall have the right and the duty to waive the immunity of any official in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the specialized agency.</p>	Yes	To clarify the purpose of providing Ps & Is to WTO officials and remind the WTO of its duty to waive the immunities as necessary.
<p><i>Section 23</i></p> <p>Each specialized agency shall co-operate at all times with the appropriate authorities of member States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connexion with the privileges, immunities and facilities mentioned in this article.</p>	No	This section refers to the obligation of the WTO and should be implemented by the WTO.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
ARTICLE VII : Abuses of privilege		
<p><i>Section 24</i></p> <p>If any State party to this Convention considers that there has been an abuse of a privilege or immunity conferred by this Convention, consultations shall be held between that State and the specialized agency concerned to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the State and the specialized agency concerned, the question whether an abuse of a privilege or immunity has occurred shall be submitted to the International Court of Justice in accordance with section 32. If the International Court of Justice finds that such an abuse has occurred, the State party to this Convention affected by such abuse shall have the right, after notification to the specialized agency in question, to withhold from the specialized agency concerned the benefits of the privilege or immunity so abused.</p>	No	To be implemented by co-ordination with the WTO.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 25</i></p> <p>1. Representatives of members at meetings convened by specialized agencies, while exercising their functions and during their journeys to and from the place of meeting, and officials within the meaning of section 18, shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of abuse of privileges of residence committed by any such person in activities in that country outside his official functions, he may be required to leave by the Government of that country provided that :</p> <p>2. (I) Representatives of members, or persons who are entitled to diplomatic immunity under section 21, shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to that country.</p>	<p>No</p> <p>No</p>	<p>To be implemented by co-ordination with the WTO.</p>

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
(II) In the case of an official to whom section 21 is not applicable, no order to leave the country shall be issued other than with the approval of the Foreign Minister of the country in question, and such approval shall be given only after consultation with the executive head of the specialized agency concerned; and, if expulsion proceedings are taken against an official, the executive head of the specialized agency shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.	No	
ARTICLE VIII : Laissez-passer		
<i>Sections 26 to 30</i>	No	These provisions are not relevant to the WTO.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
ARTICLE IX : Settlement of disputes		
<p><i>Section 31</i></p> <p>Each specialized agency shall make provision for appropriate modes of settlement of :</p> <p>(a) Disputes arising out of contracts or other disputes of private character to which the specialized agency is a party;</p> <p>(b) Disputes involving any official of a specialized agency who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of section 22.</p>	No	To be implemented by co-ordination with the WTO.

1947 Convention	Recommended for implementation by legislation	Points to note regarding the application of the provisions in Hong Kong
<p><i>Section 32</i></p> <p>All differences arising out of the interpretation or application of the present Convention shall be referred to the International Court of Justice unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between one of the specialized agencies on the one hand, and a member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court and the relevant provisions of the agreements concluded between the United Nations and the specialized agency concerned. The opinion given by the Court shall be accepted as decisive by the parties.</p>	No	This section is not relevant to the WTO.
ARTICLE X : Annexes and application to individual specialized agencies		
<i>Sections 33 to 40</i>	No	These sections are not relevant to the WTO.
ARTICLE XI : Final provisions		
<i>Sections 41 to 49</i>	No	These sections are not relevant to the WTO.

Annex IV

Ps & Is conferred by the Hosts of previous MCs

- A total of five MCs have been held since the establishment of the WTO in 1995: MC1 in Singapore (December 1996); MC2 in Geneva (May 1998); MC3 in Seattle (November/December 1999); MC4 in Doha (November 2001); and MC5 in Cancun (September 2003).
- Comparison cannot be made with the MCs which were held in non-English speaking countries: Geneva MC in French; Doha MC in Arabic; and Cancun MC in Spanish. The information which we found on their legislation is either not related to the WTO or is in a foreign language not legible to us (and it will take time and resources to arrange for translation).
- On the Singapore MC, it appears that Singapore had relied on its International Organizations (Immunities and Privileges) Act for implementing the Ps and Is for international organizations.
- On the Seattle MC, the Government of the United States of America implemented the Ps & Is of the WTO by an Executive Order (the Order) dated 9 April 1997 (Attachment to **Annex IV**). The Order provides that the “1947 Convention” shall apply to the WTO, its officials, and the representatives of its members subject to the following clarifications and adaptation:-

(a) exemption of taxation and national service obligations (service in US armed forces) are not applicable to US nationals and permanent residents;

(b) exemption from immigration restriction and registration in respect of WTO officials and representatives of WTO members shall be the same as, and not greater than, exemptions accorded to officers and employees of foreign governments;

(c) exemption of taxation of the WTO does not extend to that part of the property not used for the purposes of the WTO; and

(d) adaptation of the term "foreign minister" to "Secretary of State".

The Order also provides that the WTO is entitled to the Ps and Is conferred by the International Organizations Immunities Act (the "Act") without impairment of the protection under the 1947 Convention. As far as we understand, the Ps and Is under the Act are similar to those in the 1947 Convention. In addition, the Act contains specific modifications of the domestic law of the United States in relation to taxation, social security and immigration in order to give effect to the Ps and Is of international organizations.

END.

Responsible Office: I

Subject: IMPLEMENTING FOR THE UNITED STATES ARTICLE VIII OF THE
AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION
CONCERNING LEGAL CAPACITY AND PRIVILEGES AND IMMUNITIES

TEXT

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 101(b) of the Uruguay Round Agreements Act (Public Law 103-465) and section 1 of the International Organizations Immunities Act (22 U.S.C. 288), I hereby implement for the United States the provisions of Article VIII of the Agreement Establishing the World Trade Organization.

Section 1. The provisions of the Convention on the Privileges and Immunities of the Specialized Agencies (U.N. Central Assembly Resolution 179 (II) of November 21, 1947, 33 U.N.T.S. 261) shall apply to the World Trade Organization, its officials, and the representatives of its members, provided: (1) sections 19(b) and 15, regarding immunity from taxation, and sections 13(d) and section 20, regarding immunity from national service obligations, shall not apply to U.S. nationals and aliens admitted for permanent residence; (2) with respect to section 13(d) and section 19(c), regarding exemption from immigration restrictions and alien registration requirements, World Trade Organization officials and representatives of its members shall be entitled to the same, and no greater, privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees of foreign governments, and members of their families; (3) with respect to section 9(a) regarding exemption from taxation, such exemption shall not extend to taxes levied on real property, or that portion of real property, which is not used for the purposes of the World Trade Organization. The leasing or renting by the World Trade Organization of its property to another entity or person to generate revenue shall not be considered a use for the purposes of the World Trade Organization. Whether property or portions thereof are used for the purposes of the World Trade Organization shall be determined within the sole discretion of the Secretary of State or the Secretary's designee; (4) with respect to section 25(2)(II) regarding approval of orders to leave the United States, "Foreign Minister" shall mean the Secretary of State or the Secretary's designee.

Sec. 2. In addition and without impairment to the protections extended above, having found that the World Trade Organization is a public international organization in which the United States participates within the meaning of the International Organizations Immunities Act, I hereby designate the World Trade Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by that Act, except that section 6 of that Act, providing exemption from property tax imposed by, or under the authority of, any Act of Congress, shall not extend to taxes levied on property, or

that portion of property, that is not used for the purposes of the World Trade Organization. The leasing or renting by the World Trade Organization of its property to another entity or person to generate revenue shall not be considered a use for the purposes of the World Trade Organization. Whether property or portions thereof are used for the purposes of the World Trade Organization shall be determined within the sole discretion of the Secretary of State or the Secretary's designee. This designation is not intended to abridge in any respect privileges, exemptions, or immunities that the World Trade Organization otherwise enjoys or may acquire by international agreements or by congressional action.

/s/William J. Clinton

THE WHITE HOUSE,
April 9, 1997.